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LEGISLATIVE JOURNAL
OF THE
STATE OF NEBRASKA
Volume 1

EIGHTY-NINTH LEGISLATURE
THIRD SPECIAL SESSION

1986

Convened November 12, 1986

Adjourned November 20, 1986

LINCOLN, NEBRASKA

Compiled

Under the Authority of the Legislature

by

PATRICK J. O'DONNELL, CLERK

OFFICERS OF THE LEGISLATURE

Donald F. McGinley, (Lt. Governor), President Lincoln
 William E. Nichol, Speaker Scottsbluff
 Patrick J. O'Donnell, Clerk Lincoln
 Richard Brown, Assistant Clerk Lincoln
 Robert E. Palmer, Chaplain Coordinator Lincoln
 Carl E. Kamprath, Sergeant at Arms Lincoln

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 Shirley Marsh, Lincoln Vice Chairperson
 William E. Nichol, Scottsbluff Speaker
 William Barrett, Lexington Member-at-large
 Ernie Chambers, Omaha Member-at-large
 John W. DeCamp, Neligh Member-at-large
 Patricia S. Morehead, Beatrice Member-at-large
 Carol McBride Pirsch, Omaha Member-at-large
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 Leona Shields

LEGISLATURE

MEMBERS

Dist.	Name	Address	Occupation	Counties
1	R. Wiley Remmers.....	Auburn.....	Farmer	Johnson, Nemaha, Otoe*, Pawnee, Richardson
2	Calvin F. Carsten.....	Avoca	Retired Farmer	Cass, Otoe*
3	Emil E. Beyer, Jr.	Gretna	Real Estate Development	Douglas*, Sarpy*
			and Investments	
4	Gary E. Hannibal	Omaha.....	Contractor.....	Douglas*
5	Bernice Labedz	Omaha.....	State Senator.....	Douglas*
6	Peter Hoagland	Omaha.....	Attorney.....	Douglas*
7	Timothy J. Hall.....	Omaha.....	Development Director	Douglas*
			U.C.S.S. (United Catholic Social Services)	
8	Vard Johnson.....	Omaha.....	Attorney.....	Douglas*
9	Marge Higgins	Omaha.....	Real Estate/	Douglas*
			Investments	
10	Carol McBride Pirsch	Omaha.....	Supervisor of.....	Douglas*
			Community Relations	
11	Ernie Chambers	Omaha.....	Barber	Douglas*
12	Chris Abboud.....	Ralston.....	Attorney.....	Douglas*
13	Daniel C. Lynch.....	Omaha.....	Vice President, Consumer	Douglas*
			Affairs, Blue Cross/ Blue Shield of NE	
14	Ron Withem	Papillion	Executive Director	Sarpy*
			MCAO	
15	Lowell C. Johnson	North Bend	Retired Engineer/.....	Dodge*
			Farmer/Businessman	

Dist.	Name	Address	Occupation	Counties
16	James E. Goll.....	Tekamah	President-Tekamah	Burt, Cuming*, Thurston, Washington
17	Gerald A. Conway.....	Wayne	Professor, Consultant.....	Dakota, Dixon, Wayne*
18	Harry B. Chronister.....	Schuyler.....	Agri-Business	Colfax, Cuming*, Dodge*, Stanton
19	Elroy M. Hefner	Coleridge.....	Business Executive	Cedar, Knox, Pierce, Wayne*
20	Glenn A. Goodrich.....	Omaha.....	Electrical Contracting	Douglas*
21	Richard Peterson	Norfolk	Farmer/Beekeeper/ Businessman	Madison
22	Lee Rupp	Monroe	Public Relations/ Ag. Real Estate	Boone*, Nance, Platte*
23	Loran Schmit	Bellwood	Farmer	Butler, Platte*, Saunders
24	Harold F. Sieck.....	Pleasant Dale	Farmer	Polk*, Seward, York
25	Jerome Warner	Waverly.....	Livestock/Farming.....	Lancaster*
26	Donald Wesely.....	Lincoln	Businessman.....	Lancaster*
27	Bill Harris	Lincoln	Oil Exploration	Lancaster*
28	James D. McFarland	Lincoln	Lawyer	Lancaster*
29	Shirley Marsh	Lincoln	Legislator	Lancaster*
30	Patricia S. Morehead	Beatrice	State Senator.....	Gage, Jefferson*
31	Jerry Chizek	Omaha.....	Manager, Public Affairs.....	Douglas*
32	Donald Eret	Dorchester.....	Farmer	Fillmore, Jefferson*, Saline, Thayer
33	Jacklyn Smith.....	Hastings	Realtor	Adams
34	Rod Johnson.....	Sutton.....	Farmer	Clay, Hall*, Hamilton, Merrick, Polk*
35	Arlene Nelson	Grand Island	Agri-Bookkeeper.....	Hall*
36	Ray E. Lundy	Kearney.....	Retired City Manager.....	Buffalo*, Hall*
37	Jerry D. Miller.....	Davenport.....	Farmer/Agri-Business	Buffalo*, Franklin, Kearney, Nuckolls, Webster

Dist.	Name	Address	Occupation	Counties
38	Tom Vickers.....	Farnam.....	Farmer/Rancher.....	Frontier, Furnas, Gosper, Harlan, Lincoln*, Red Willow
39	William E. Barrett	Lexington.....	Real Estate/Insurance	Dawson, Phelps
40	John W. DeCamp.....	Neligh.....	Attorney/Real Estate.....	Antelope, Boone*, Boyd, Holt
41	Carson H. Rogers.....	Ord.....	Hog Farmer	Custer*, Garfield, Greeley, Hall*, Howard, Loup, Sherman, Valley, Wheeler
42	James E. Pappas	North Platte	Consultant.....	Lincoln*
43	Howard A. Lamb.....	Anselmo	Rancher.....	Blaine, Brown, Cherry, Custer*, Hooker, Keya Paha, Logan, McPherson, Rock, Thomas
44	Rex Haberman.....	Imperial.....	State Senator/	Arthur, Chase, Deuel, Dundy, Grant, Hayes, Hitchcock, Keith, Lincoln*, Perkins
			Farm Management	
45	D. Paul Hartnett.....	Bellevue.....	College Professor	Sarpy*
46	David Landis	Lincoln	Teacher/State Senator.....	Lancaster*
47	Dennis Baack.....	Kimball	Farmer	Banner, Cheyenne, Garden, Kimball, Morrill, Scotts Bluff*
48	William E. Nichol.....	Scottsbluff.....	Retired	Scotts Bluff*
49	Sandra K. Scofield.....	Chadron	Counselor/Consultant/	Box Butte, Dawes, Sheridan, Sioux
			Farmer	

Clerk

Patrick J. O'Donnell Lincoln

RULES OF THE LEGISLATURE

Rules in effect at the commencement of the Eighty-Ninth Legislature, Third Special Session, 1986, are the same rules in effect at the commencement of the Ninetieth Legislature, First Session, 1987.

FIRST DAY - NOVEMBER 12, 1986

LEGISLATIVE JOURNAL

**EIGHTY-NINTH LEGISLATURE
THIRD SPECIAL SESSION**

FIRST DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, November 12, 1986

Pursuant to a proclamation by His Excellency, Robert Kerrey, Governor of the State of Nebraska, the Eighty-Ninth Legislature, Third Special Session assembled in the West Legislative Chamber of the State Capitol, at the hour of 2:00 p.m., Wednesday, November 12, 1986, and was called to order by Speaker Nichol.

PRAYER

The prayer was offered by Dr. Robert Palmer, Westminster Presbyterian Church, Lincoln, Nebraska.

PRESENTATION OF COLORS

Presentation of Colors by the Nebraska Army National Guard.

DECLARATION

Pursuant to a proclamation issued by the Honorable Robert Kerrey, Governor of Nebraska, we are here and now assembled in the 89th Legislature, 3rd Special Session of the Nebraska Legislature. I, as Speaker, declare that we are now open for the transaction of business.

(Signed) William E. Nichol,
Speaker

ROLL CALL

The roll was called and the following members were present:

Abboud, Chris

Baack, Dennis

Barrett, William E.

Carsten, Calvin F.	Higgins, Marge	Nichol, William E.
Chambers, Ernie	Hoagland, Peter	Pappas, James E.
Chizek, Jerry	Johnson, Lowell C.	Peterson, Richard
Chronister, Harry B.	Johnson, Rod	Pirsch, Carol McBride
Conway, Gerald A.	Johnson, Vard R.	Remmers, R. Wiley
DeCamp, John W.	Labeledz, Bernice	Rupp, Lee
Eret, Don	Lamb, Howard A.	Schmit, Loran
Goll, James E.	Landis, David M.	Scofield, Sandra K.
Goodrich, Glenn A.	Lundy, Ray E.	Sieck, Harold F.
Haberman, Rex	Lynch, Dan	Smith, Jacklyn J.
Hall, Timothy J.	McFarland, James	Vickers, Tom
Hannibal, Gary E.	Miller, Jerry D.	Warner, Jerome
Harris, Bill	Morehead, Patricia S.	Wesely, Don
Hartnett, D. Paul	Nelson, Arlene	Withem, Ron
Hefner, Elroy M.		

Mr. Beyer and Mrs. Marsh were excused; and Mr. Rogers was excused until he arrives.

CERTIFICATE

State of Nebraska
Department of State

I, Allen J. Beermann, Secretary of State of the State of Nebraska do hereby certify that the attached is a true and correct machine copy of a proclamation issued by Governor Robert Kerrey on the tenth day of November, 1986, the subject of which is to convene the Legislature of Nebraska in an extraordinary session on Wednesday, November 12, 1986. The purpose of the extraordinary session is set forth in the proclamation attached.

Further, I do hereby certify that the original of the proclamation is on file in the office of Secretary of State and is a matter of public record.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State of Nebraska.

Done at Lincoln this twelfth day of November in the year of our Lord, one thousand nine hundred and eighty-six.

(SEAL)

Allen J. Beermann, Secretary of State
Ralph Englert, Deputy

PROCLAMATION

BY VIRTUE OF THE AUTHORITY VESTED in the Governor by Article IV, Section 8, of the Constitution of the State of Nebraska, I, Robert Kerrey, as Governor of the State of Nebraska, believing that an extraordinary occasion has arisen, DO HEREBY CALL the Legislature of Nebraska to convene in extraordinary session at the State Capitol on Wednesday, November 12, 1986, at 2:00 p.m., for the purpose of considering the following subjects:

1. To adopt a Farm Homestead Protection Act; to change the right to cure default in certain actions involving agricultural land; to protect farm homesteads subject to mortgages or trust deeds executed prior to the effective date of the act by permitting designation and repurchase of the homestead by the mortgagor or trustor through a two-sale process in the event of foreclosure or exercise of a power of sale; to provide for predesignation or disclaimer of farm homesteads in mortgages or trust deeds executed on or after the effective date of the act; to protect farm homesteads subject to mortgages or trust deeds or judgments executed or entered on or after the effective date of the act by permitting redemption of the homestead through an appraisal procedure in the event of foreclosure or exercise of a power of sale or execution on a judgment; and to repeal sections 1 and 4 of Laws 1986, L.B. 999, Eighty-ninth Legislature, Second Session, and to amend the remaining sections thereof in accordance with the foregoing; and to declare an emergency.

2. To enact legislation to implement and supplement Section 1324 of the Food Security Act of 1985, Public Law 99-198, and regulations promulgated pursuant thereto; to delete certain provisions from the Nebraska Uniform Commercial Code pre-empted by Section 1324 of the Food Security Act of 1985, Public Law 99-198; to set fees and appropriate cash funds to the Secretary of State for implementation and operation; and to appropriate revolving funds to the Data Processing Division of the Department of Administrative Services.

3. To appropriate funds for the necessary expenses of the extraordinary session herein called.

I direct that members of the Legislature of the State of Nebraska be notified of the convening of this extraordinary session by sending to each of them a copy of this Proclamation.

LEGISLATIVE JOURNAL

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Nebraska to be affixed this 10th day of November, 1986.

(Signed) ROBERT KERREY
Governor

(SEAL)Attest:

(Signed) ALLEN J. BEERMANN
Secretary of State

MOTION - Election of Officers

Mr. Carsten moved that the following officers be elected to serve for the Eighty-Ninth Legislature, Third Special Session:

Clerk of the Legislature
Assistant Clerk of the Legislature
Chaplain Coordinator
Sergeant at Arms

Patrick J. O'Donnell
Richard Brown
Dr. Robert E. Palmer
Carl Kamprath

The motion prevailed.

MESSAGE FROM THE SECRETARY OF STATE

November 12, 1986

Honorable William E. Nichol
Speaker of the Legislature
State Capitol
Lincoln, NE

Dear Speaker Nichol:

This letter is to inform you that Amendment #1 (December start of the Legislature) was defeated by the people on November 4, 1986, general election day.

Please be advised that the unofficial totals are as follows;

For: 223,714

Against: 228,777

therefore, it appears that Amendment #1 lost by a margin of 5,063 votes. You should also be advised that the official abstracts of canvass are now being received by our office. These will be

keypunched in preparation of the State Canvass Board that meets on December 1, 1986. At that time the official results will be known and certified by the State Canvass Board.

In preparation for the special session now about to begin, I wanted you and your colleagues in the Legislature to have the unofficial return with reference to proposed Amendment #1.

Respectfully submitted,
(Signed) ALLEN J. BEERMANN
Secretary of State

CERTIFICATE

State of Nebraska
Department of State

I, Allen J. Beermann, Secretary of State of the State of Nebraska do hereby certify that the attached represents a true and correct roster of the members of the Nebraska Unicameral Legislature serving in the Eighty-ninth Legislature, Third Extraordinary (Special) Session, called by the Governor to commence on November 12, 1986.

Further, I hereby certify that all members whose names appear on the roster with the district designation have been duly elected or appointed to serve as a member of the Legislature in the Eighty-ninth Legislature, Third Extraordinary (Special) Session.

Finally, I hereby certify that all election or appointment records are a matter of public record in the office of Secretary of State.

Further, I saith not.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State of Nebraska.

Done at Lincoln this sixth day of November in the year of our Lord, one thousand nine hundred and eighty-six.

(SEAL) Allen J. Beermann, Secretary of State
Ralph Englert, Deputy

DISTRICT	NAME	ELECTED
----------	------	---------

1	R. Wiley Remmers	November 6, 1984
2	Calvin F. Carsten	November 2, 1982
3	Emil E. Beyer, Jr.	November 6, 1984
4	Gary E. Hannibal	November 2, 1982
5	Bernice Labedz	November 6, 1984
6	Peter Hoagland	November 2, 1982
7	Tim Hall	November 6, 1984
8	Vard Johnson	November 2, 1982
9	Marge Higgins	November 6, 1984
10	Carol McBride Pirsch	November 2, 1982
11	Ernie Chambers	November 6, 1984
12	Chris Abboud	November 2, 1982
13	Daniel C. Lynch	November 6, 1984
14	Ron Withem	(2 yr. term) November 2, 1982
15	Lowell C. Johnson	November 6, 1984
16	James E. Goll	November 2, 1982
17	Gerald A. Conway	November 6, 1984
18	Harry B. Chronister	November 2, 1982
19	Elroy M. Hefner	November 6, 1984
20	Glenn A. Goodrich	November 2, 1982
21	Richard Peterson	November 6, 1984
22	Lee Rupp	November 2, 1982
23	Loran Schmit	November 6, 1984
24	Harold F. Sieck	November 2, 1982
25	Jerome Warner	November 6, 1984
26	Don Wesely	November 2, 1982
27	Bill Harris	November 6, 1984
28	James McFarland	(Appointed March 5, 1986)
29	Shirley Marsh	November 6, 1984
30	Patricia S. Morehead	November 2, 1982
31	Jerry Chizek	November 6, 1984
32	Donald Eret	November 2, 1982
33	Jacklyn Smith	November 6, 1984
34	Rod Johnson	November 2, 1982
35	Arlene B. Nelson	November 6, 1984
36	Ray Lundy	November 2, 1982
37	Jerry D. Miller	November 6, 1984
38	Tom Vickers	November 2, 1982
39	William E. Barrett	November 6, 1984
40	John W. DeCamp	November 2, 1982
41	Carson Rogers	November 6, 1984
42	James E. Pappas	November 2, 1982
43	Howard Lamb	November 6, 1984
44	Rex Haberman	November 2, 1982
45	D. Paul Hartnett	November 6, 1984

FIRST DAY - NOVEMBER 12, 1986

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46 David Landis	November 2, 1982
47 Dennis Baack	November 6, 1984
48 William E. Nichol	November 2, 1982
49 Sandra K. Scofield	November 6, 1984

MESSAGES FROM THE GOVERNOR

May 6, 1986

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Rural Health Manpower Commission requiring legislative confirmation.

Appointee:

Mark Wittler, 13104 B Plaza, Omaha, NE 68144, 330-2262, Term:
5/1/86 to 9/1/86, Succeeds: Linda Mazour, resigned.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) ROBERT KERREY
Governor

RK/mr

cc: Staff Assistant to the Governor
Accountability and Disclosure Commission
Department of Administrative Services
Department of Health

May 28, 1986

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President and Senators:

LEGISLATIVE JOURNAL

This is to inform the honorable members of the Legislature that I have made the following appointment to the Board of Educational Lands and Funds requiring legislative confirmation.

Appointee:

David A. Domina, 2425 Taylor Avenue, Norfolk, NE 68701, (402) 371-4300, Term: 5/21/86 to 10/1/88, Succeeds: is reappointed.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) ROBERT KERREY
Governor

RK/mr

cc: Staff Assistant to the Governor
Accountability and Disclosure Commission
Department of Administrative Services
Educational Lands and Funds

May 28, 1986

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the position of Director, Department of Administrative Services, requiring legislative confirmation.

Appointee:

Larry Bare, Lincoln, Nebraska.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) ROBERT KERREY
Governor

cc: Staff Assistant to the Governor
Director, State Personnel

FIRST DAY - NOVEMBER 12, 1986

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June 2, 1986

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointments to the Foster Care Review Board requiring legislative confirmation.

Appointees:

Jan Spaulding, 3410 West F Street, North Platte, NE 69101, (308) 532-5150, Term: 7/15/86 to 7/15/89, Succeeds: Roger Lott, term expired.

Chris Hanus, 4721 Southwood Drive, Lincoln, NE 68512, 471-9308, Term: 7/15/86 to 7/15/89, Succeeds: Amy Richardson, term expired.

These appointments are respectfully submitted for your consideration.

Sincerely,
(Signed) ROBERT KERREY
Governor

cc: Staff Assistant to the Governor
Accountability and Disclosure Commission
Department of Administrative Services
Foster Care Review Board

June 2, 1986

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointments to the Nebraska Child Abuse Prevention Fund Board requiring legislative confirmation.

Appointees:

Dr. Tom Tonneges, M.D., 1126 Sumner, Hastings, NE 68901, 463-6828(o), 463-9443(h), Term: 7/16/86 to 7/16/87, Succeeds: is a new appointee.

John Dudley, Ph.D., 1201 Twinridge Road, Lincoln, NE 68510, 473-0334(o), 489-7724(h), Term: 7/16/86 to 7/16/87, Succeeds: is a new appointee.

Marietta Sims, #15 R Villa, Kearney, NE 68847, (308) 234-8208(o), Term: 7/16/86 to 7/16/88, Succeeds: is a new appointee.

Kathy Campbell, 6201 Pine Lake Road, Lincoln, NE 68516, 483-7891(o), 421-3813(h), Term: 7/16/86 to 7/16/88, Succeeds: is a new appointee.

Karen Authier, 2000 Skyline Drive, Elkhorn, NE 68022, 449-6605(o), 289-3571(h), Term: 7/16/86 to 7/16/88, Succeeds: is a new appointee.

Jessie Rasmussen, 2405 South 103rd Street, Omaha, NE 68124, 559-7451(o), 397-3861(h), Term: 7/16/86 to 7/16/89, Succeeds: is a new appointee.

Deane Finnegan, 1936 Ryons, Lincoln, NE 68502, 475-2146(h), Term: 7/16/86 to 7/16/89, Succeeds: is a new appointee.

These appointments are respectfully submitted for your consideration.

Sincerely,
(Signed) ROBERT KERREY
Governor

RK/mr

cc: Staff Assistant to the Governor
Accountability and Disclosure Commission
Department of Administrative Services
Department of Social Services

June 3, 1986

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President and Senators:

FIRST DAY - NOVEMBER 12, 1986

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This is to inform the honorable members of the Legislature that I have made the following appointment to the Environmental Control Council requiring legislative confirmation.

Appointee:

James R. (Dick) Gregg, 7541 Sawtooth Circle, Omaha, NE 68157,
734-3655, Term: 6/3/86 to 6/22/89, Succeeds: Dave Pueppke,
resigned.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) ROBERT KERREY
Governor

RK/mr

cc: Staff Assistant to the Governor
Accountability and Disclosure Commission
Department of Administrative Services
Department of Environmental Control

June 30, 1986

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointments to the Coordinating Commission for Postsecondary Education requiring legislative confirmation.

Appointees:

Beth Klosterman, Route 1, David City, NE 68632, 367-3209,
Term: 6/27/86 to 6/3/92, Succeeds: is reappointed.
Wendall W. Wood, Box 1105, North Platte, NE 69101, (308)
532-1055, Term: 6/27/86 to 6/3/92, Succeeds: is reappointed.

These appointments are respectfully submitted for your consideration.

Sincerely,
(Signed) ROBERT KERREY

Governor

RK/mr

cc: Staff Assistant to the Governor
Accountability and Disclosure Commission
Department of Administrative Services
Coordinating Commission for Postsecondary Education

July 21, 1986

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointments to the Motor Vehicle Industry Licensing Board requiring legislative confirmation.

Appointees:

Clifford E. Langel, P.O. Box 689, Norfolk, NE 68701, 371-3377,
Term: 7/16/86 to 5/18/89, Succeeds: is reappointed.

P. J. Morgan, 8420 West Dodge Road, Suite 100, Omaha, NE
68114, 393-7775, Term: 7/16/86 to 5/18/89, Succeeds: is
reappointed.

These appointments are respectfully submitted for your
consideration.

Sincerely,
(Signed) ROBERT KERREY
Governor

cc: Staff Assistant to the Governor
Accountability and Disclosure Commission
Department of Administrative Services
Motor Vehicle Industry Licensing Board

July 21, 1986

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol
Lincoln, NE 68509

FIRST DAY - NOVEMBER 12, 1986

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Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointments to the Oil and Gas Commission requiring legislative confirmation.

Appointees:

Harold C. Tremain, 1740 King Street, Sidney, NE 69162, (308)254-5763, Term: 7/16/86 to 9/28/89, Succeeds: Guy F. Bush, term expired.

James (Sonny) Eatmon, Eatmon Well Service, P.O. Drawer 70, Kimball, NE 69145, (308)235-2810, Term: 7/16/86 to 9/28/89, Succeeds: Reed Gilmore, term expired.

These appointments are respectfully submitted for your consideration.

Sincerely,
(Signed) ROBERT KERREY
Governor

RK/mr

cc: Staff Assistant to the Governor
Accountability and Disclosure Commission
Department of Administrative Services
Oil and Gas Commission

August 4, 1986

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the position of Director, Nebraska Department of Public Institutions, requiring legislative confirmation.

Appointee:

Dale B. Johnson, Lincoln, Nebraska, Term: August 4, 1986 - At the pleasure of the Governor.

LEGISLATIVE JOURNAL

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) ROBERT KERREY
Governor

August 12, 1986

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Motor Vehicle Industry Licensing Board requiring legislative confirmation.

Appointee:

Jim Earp, Jim Earp Chrysler/Plymouth, 5500 L Street, Omaha,
NE 68117, 734-1500, Term: 8/1/86 to 10/19/86, Succeeds: Rick
McFayden, resigned.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) ROBERT KERREY
Governor

RK/mr

cc: Staff Assistant to the Governor
Accountability and Disclosure Commission
Department of Administrative Services
Motor Vehicle Industry Licensing Board

August 15, 1986

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President and Senators:

FIRST DAY - NOVEMBER 12, 1986

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This is to inform the honorable members of the Legislature that I have made the following appointment to the State Personnel Board requiring legislative confirmation.

Appointee:

Lovie D. Broadus, Human Resources Division, National Bank of Commerce, 13th and O Streets, Lincoln, NE 68508, 472-4321,
Term: 8/11/86 to 8/4/91, Succeeds: is reappointed.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) ROBERT KERREY
Governor

RK/mr

cc: Staff Assistant to the Governor
Accountability and Disclosure Commission
Department of Administrative Services
Department of Personnel

August 15, 1986

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointments to the Research and Development Authority requiring legislative confirmation.

Appointees:

Lee D. Jones, University of Nebraska-Lincoln, 227 Varner Hall, Lincoln, NE 68588, Term: 8/14/86 to 7/15/88, Succeeds: is a new appointee.

Robert Allington, Ph.D., President, ISCO, Inc., 4700 Superior, Lincoln, NE 68504, Term: 8/14/86 to 7/15/92, Succeeds: is a new appointee.

Thomas C. Smith, Smith Hayes Financial Services Corporation, NBC Center, Suite 720, 13th and O Streets, Lincoln, NE 68508, Term: 8/14/86 to 7/15/92, Succeeds: is a new appointee.

Clifford Williams, President, International Sensor Systems, Inc.,
P.O. Box 345, Aurora, NE 68818, Term: 8/14/86 to 7/15/90,
Succeeds: is a new appointee.

William Thiesen, President Business Ventures, Inc., 9140 West
Dodge Road, Suite 200, Omaha, NE 68114, Term: 8/14/86 to
7/15/90, Succeeds: is a new appointee.

Steven E. Levy, Attorney at Law, Kutak Rock and Campbell,
1101 Connecticut Avenue, N.W., Washington, D.C. 20036,
Term: 8/14/86 to 7/15/88, Succeeds: is a new appointee.

Steven Sherman, Chairman, Vodavi Technology Corporation,
8300 East Raintree Drive, Scottsdale, AZ 85260, Term: 8/14/86
to 7/15/90, Succeeds: is a new appointee.

Lewis E. Harris, Chairman Emeritus, Harris Laboratories, Inc.,
624 Peach Street, Lincoln, NE 68502, Term: 8/14/86 to 7/15/92,
Succeeds: is a new appointee.

These appointments are respectfully submitted for your
consideration.

Sincerely,
(Signed) ROBERT KERREY
Governor

RK/mr

cc: Staff Assistant to the Governor
Accountability and Disclosure Commission
Department of Administrative Services
Department of Economic Development

September 1, 1986

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I
have made the following appointment to the position of Director,
Nebraska Department of Agriculture, requiring legislative
confirmation.

Appointee:

Don Hutchens, Lincoln, Nebraska, Term: September 1, 1986 - At
the pleasure of the Governor.

FIRST DAY - NOVEMBER 12, 1986

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This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) ROBERT KERREY
Governor

September 9, 1986

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Accountability and Disclosure Commission requiring legislative confirmation.

Appointee:

Gale Sup, 2464 Woodcrest Avenue, Lincoln, NE 68502,
476-7979(h) 476-3432(o), Term: 9/8/86 to 6/30/92, Succeeds:
Miles Johnston, Term expired.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) ROBERT KERREY
Governor

RK/mr

cc: Staff Assistant to the Governor
Accountability and Disclosure Commission
Department of Administrative Services

September 9, 1986

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointments to the Board of Educational Lands and Funds requiring legislative confirmation.

Appointees:

James Symonds, Attorney at Law, P.O. Box 898, O'Neill, NE 68763, 336-1921, Term: 9/9/86 to 10/1/88, Succeeds: Dave Domina, resigned.

Henry Krug Jr., Benkelman, NE 69021, (308)423-2134, Term: 10/1/86 to 10/1/91, Succeeds: is reappointed.

These appointments are respectfully submitted for your consideration.

Sincerely,
(Signed) ROBERT KERREY
Governor

RK/mr

cc: Staff Assistant to the Governor
Accountability and Disclosure Commission
Department of Administrative Services
Board of Educational Lands and Funds

October 15, 1986

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Environmental Control Council requiring legislative confirmation.

Appointee:

Charles A. Poremba, Vice President, Manufacturing, Petersen Manufacturing Company, DeWitt, NE 68341, Term: 10/15/86 to 6/22/87, Succeeds: Jim George, resigned.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) ROBERT KERREY

FIRST DAY - NOVEMBER 12, 1986

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Governor

RK/mr

cc: Staff Assistant to the Governor
Accountability and Disclosure Commission
Department of Administrative Services
Environmental Control Council

October 15, 1986

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointments to the State Electrical Board requiring legislative confirmation.

Appointees:

Paul Mead, City Building Inspector, 18 East 22nd Street, Kearney, NE 68847, (308) 237-5133, Term: 9/30/86 to 9/13/90, Succeeds: is reappointed.

Chris L. Saltzgaber, Rural Route 3, Box 11, Grand Island, NE 68801, (308) 687-6118, Term: 9/30/86 to 9/13/90, Succeeds: Dennis Vanosdall, term expired.

William M. Whitmern, 1012 North 25th Street, Lincoln, NE 68503, Term: 9/30/86 to 9/13/91, Succeeds: is reappointed.

These appointments are respectfully submitted for your consideration.

Sincerely,
(Signed) ROBERT KERREY
Governor

RK/mr

cc: Staff Assistant to the Governor
Accountability and Disclosure Commission
Department of Administrative Services
State Electrical Board

October 15, 1986

Mr. President, Mr. Speaker

and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointments to the Crime Victims Reparation Committee requiring legislative confirmation.

Appointees:

Shirley Howell, 1901 G Street, Fairbury, NE 68352, 729-6584,
Term: 9/30/86 to 7/16/88, Succeeds: is a new appointment.

Professor Gaylon L. Kuchel, University of Nebraska-Omaha,
Criminal Justice Department, Omaha, NE 68182, 554-2610,
Term: 9/30/86 to 7/16/88, Succeeds: is a new appointment.

Keith Lant, Public Safety Director, 1819 Farnam Street, Omaha,
NE 68183, 444-5043, Term: 9/30/86 to 7/16/90, Succeeds: is a
new appointment.

John Paris, Box 505, Crawford, NE 69339, (308) 665-1203, Term:
9/30/86 to 7/16/90, Succeeds: is a new appointment.

Marlene Cupp, 1507 Liberty, Lexington, NE 68850, (308)
324-2498, Term: 9/30/86 to 7/16/90, Succeeds: is a new
appointment.

These appointments are respectfully submitted for your
consideration.

Sincerely,
(Signed) ROBERT KERREY
Governor

RK/mr

cc: Staff Assistant to the Governor
Accountability and Disclosure Commission
Department of Administrative Services
Crime Commission

October 28, 1986

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Motor Vehicle Industry Licensing Board requiring legislative confirmation.

Appointee:

Jim Earp, Jim Earp Chrysler/Plymouth, 5500 L Street, Omaha, NE 68117, 734-1500, Term: 10/28/86 to 10/19/89, Succeeds: is reappointed.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) ROBERT KERREY
Governor

RK/mr

cc: Staff Assistant to the Governor
Accountability and Disclosure Commission
Department of Administrative Services
Motor Vehicle Industry Licensing Board

October 28, 1986

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Accountability and Disclosure Commission requiring legislative confirmation.

Appointee:

Burl M. Johnson, Unit 5, 2324 South 74th Street, Lincoln, NE 68502, 488-4076(h), Term: 10/15/86 to 6/30/92, Succeeds: Gale Sup, resigned.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) ROBERT KERREY
Governor

RK/mr

cc: Staff Assistant to the Governor
Accountability and Disclosure Commission
Department of Administrative Services

November 3, 1986

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointments to the Arts Council requiring legislative confirmation.

Appointees:

Gail Walling Yanney, 6520 Rainwood Road, Omaha, NE 68152, 571-8110, Term: 11/3/86 to 9/2/89, Succeeds: is reappointed.
Bob Johnston, Route 1, Box 96, Scottsbluff, NE 69301, Term: 11/3/86 to 9/2/89, Succeeds: Jeanne Smith, term expired.
Phyllis Narveson, 1729 C Street, Lincoln, NE 68508, 435-5858, Term: 11/3/86 to 9/2/89, Succeeds: Lois Roskens, term expired.
Carmen Messineo, 7535 South Hampton Road, Lincoln, NE 68506, 489-0231, Term: 11/3/86 to 9/2/87, Succeeds: Lucy Buntain, resigned.
Catherine Ferguson, 5113 Nicholas, Omaha, NE 68132, 553-4072, Term: 11/3/86 to 9/2/89, Succeeds: Dick Davis, term expired.
Luigi Waites, 665 South 26th Avenue, Omaha, NE 68105, 346-2783, Term: 11/3/86 to 9/2/89, Succeeds: Jerome Cohn, term expired.

These appointments are respectfully submitted for your consideration.

Sincerely,
(Signed) ROBERT KERREY
Governor

RK/mr

cc: Staff Assistant to the Governor
Accountability and Disclosure Commission
Department of Administrative Services
Arts Council

FIRST DAY - NOVEMBER 12, 1986

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November 3, 1986

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the State Personnel Board requiring legislative confirmation.

Appointee:

Steven F. Danahy, 6101 Oakridge Drive, Lincoln, NE 68516,
477-3951, Term: 11/3/86 to 8/4/90, Succeeds: Marcia Phelps
Glynn, resigned.

This appointment is respectfully submitted for your consideration.

(Signed) Sincerely,
ROBERT KERREY
Governor

RK/mr

cc: Staff Assistant to the Governor
Accountability and Disclosure Commission
Department of Administrative Services
Department of Personnel

November 3, 1986

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointments to the Safety Center Advisory Council requiring legislative confirmation.

Appointees:

Lorraine Giles, 5316 Nicholas, Omaha, NE 68132, Term: 10/31/86
to 8/24/87, Succeeds: is reappointed.

Jack Buist, State Patrol, P.O. Box 94907, Lincoln, NE 68509, Term: 10/31/86 to 8/24/87, Succeeds: is reappointed.

Ken Sieckmeyer, Department of Roads, P.O. Box 94749, Lincoln, NE 68509, Term: 10/31/86 to 8/24/87, Succeeds: is reappointed.

Harold Sobotaka, State Fire Marshall, P.O. Box 94677, Lincoln, NE 68509, Term: 10/31/86 to 8/24/87, Succeeds: Bud Weiss, term expired.

Jack Swanson, Chadron State College, Chadron, NE 69337, Term: 10/31/86 to 8/24/87, Succeeds: Don Cattle, term expired.

Gerald Sughroue, Department of Education, P.O. Box 94987, Lincoln, NE 68509, Term: 10/31/86 to 8/24/88, Succeeds: Duane Schmidt, term expired.

Rollin Schneider, 221 L.W. Chase Hall, Lincoln, NE 68509, Term: 10/31/86 to 8/24/88, Succeeds: is reappointed.

Charles Fairbanks, Hall County Sheriff's Department, County-City Public Safety Center, 131 South Locust, Grand Island, NE 68801, Term: 10/31/86 to 8/24/88, Succeeds: is reappointed.

Larry Morris, Game and Parks Commission, 2200 North 33rd Street, Lincoln, NE 68503, Term: 10/31/86 to 8/24/88, Succeeds: is reappointed.

James Preston, 521 South 14th Street, Lincoln, NE 68508, Term: 10/31/86 to 8/24/88, Succeeds: is reappointed.

Fred Zwonechek, Department of Motor Vehicles, P.O. Box 68509, Lincoln, NE 68509, Term: 10/31/86 to 8/24/89, Succeeds: is reappointed.

Gary Lund, Western Nebraska Technical College, Sidney, NE 69162, Term: 10/31/86 to 8/24/89, Succeeds: is reappointed.

Dr. Ken Kimball, M.D., Route 4 Fawn Woods Lake, Kearney, NE 68847, Term: 10/31/86 to 8/24/89, Succeeds: is reappointed.

John Siefkes, 4600 Valley Road, Lincoln, NE 68503, Term: 10/31/86 to 8/24/89, Succeeds: is reappointed.

Carol Cope, 4622 Parkland Drive, Kearney, NE 68847, Term: 10/31/86 to 8/24/89, Succeeds: is reappointed.

Robert Gunderson, Hormel and Company, P.O. Box 69, Fremont, NE 68025, Term: 10/31/86 to 8/24/89, Succeeds: is reappointed.

These appointments are respectfully submitted for your consideration.

Sincerely,
(Signed) ROBERT KERREY
Governor

RK/mr

cc: Staff Assistant to the Governor

FIRST DAY - NOVEMBER 12, 1986

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Accountability and Disclosure Commission
Department of Administrative Services
Kearney Safety Center

November 3, 1986

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Coordinating Commission on Postsecondary Education requiring legislative confirmation.

Appointee:

Eric Seacrest, 710 West 5th Street, North Platte, NE 69101, Term:
10/31/86 to 6/3/92, Succeeds: Wendall Wood, resigned.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) ROBERT KERREY
Governor

RK/mr

cc: Staff Assistant to the Governor
Accountability and Disclosure Commission
Department of Administrative Services
Coordinating Commission on Postsecondary Education

November 3, 1986

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Accountability and Disclosure Commission requiring legislative confirmation.

Appointee:

Michael F. Kinney, Attorney at Law, Suite 300, 8805 Indian Hills Drive, 292-0599(h), 390-0300(o), Term: 11/03/86 to 6/30/91, Succeeds: Lyn Ferer, resigned.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) ROBERT KERREY
Governor

RK/mr

cc: Staff Assistant to the Governor
Accountability and Disclosure Commission
Department of Administrative Services

November 3, 1986

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointments to the Investment Council requiring legislative confirmation.

Appointees:

F. Gregory Hayden, 5945 Meadowbrook Lane, Lincoln, NE 68506, 488-0156, Term: 11/3/86 to 9/18/90, Succeeds: Gwen Hershberger, term expired.

Dennis D. Jorgensen, 11518 Spaulding Street, Omaha, NE 68164, 493-2424, Term: 11/3/86 to 9/18/91, Succeeds: Sheldon Harris, term expired.

These appointments are respectfully submitted for your consideration.

Sincerely,
(Signed) ROBERT KERREY
Governor

RK/mr

cc: Staff Assistant to the Governor

FIRST DAY - NOVEMBER 12, 1986

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Accountability and Disclosure Commission
Department of Administrative Services
Investment Council

November 3, 1986

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointments to the Rural Health Manpower Commission requiring legislative confirmation.

Appointees:

Dr. Judy Butler, Westside Health Services, 254 West 4th Street, Superior, NE 68978, 879-4856, Term: 11/3/86 to 9/1/89, Succeeds: is reappointed.

Dr. L.C. Potts, 18 Grassland Ridge, Grant, NE 69140, 308/352-4711, Term: 11/3/86 to 9/1/89, Succeeds: is reappointed.

Dr. Perlita A. Narvaez, 505 East 4th Street, Rushville, NE 69360, 308/327-2438, Term: 11/3/86 to 9/1/89, Succeeds: is reappointed.

Marita Fickes, P.O. Box 9, Chappell, NE 69129, 308/327-2438, Term: 11/3/86 to 9/1/89, Succeeds: is reappointed.

Jean Garten, Boone County Hospital, Albion, NE 68620, 395-2191, Term: 11/3/86 to 9/1/89, Succeeds: Bill Matthews, term expired.

Marcia Goering, 3504 North 93rd Avenue, Omaha, NE 68134, 571-4558, Term: 11/3/86 to 9/1/89, Succeeds: Mark Wittler, term expired.

These appointments are respectfully submitted for your consideration.

Sincerely,
(Signed) ROBERT KERREY
Governor

RK/mr

cc: Staff Assistant to the Governor
Accountability and Disclosure Commission

Department of Administrative Services
Department of Health

November 3, 1986

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointments to the State Board of Health requiring legislative confirmation.

Appointees:

James W. Kenney, Mary Lanning Hospital, 715 North St. Joseph Street, Hastings, Ne 68901, 463-4521, Term: 11/3/86 to 9/14/89, Succeeds: is reappointed.

Dr. Jeanette Masek, M.D., Medical Director, Health America, 17th and N Streets, Lincoln, NE 68508, 475-7000, Term: 11/3/86 to 9/14/89, Succeeds: is reappointed.

Janet Coleman, Lincoln East High School, 1000 South 70th Street, Lincoln, NE 68510, 489-7121, Term: 11/3/86 to 9/14/89, Succeeds: is reappointed.

Arlene Rhodes, 1325 North 33rd Street, Omaha, NE 68131, 556-1955, Term: 11/3/86 to 9/14/89, Succeeds: is reappointed.

Larry Bartels, 401 Sycamore Drive, Lincoln, NE 68510, 489-1045, Term: 11/3/86 to 9/14/89, Succeeds: is reappointed.

Dr. Craig B. Nelson, 14770 California, Omaha, NE 68154, 493-2629, Term: 11/3/86 to 9/14/89, Succeeds: is reappointed.

These appointments are respectfully submitted for your consideration.

Sincerely,
(Signed) ROBERT KERREY
Governor

RK/mr

cc: Staff Assistant to the Governor
Accountability and Disclosure Commission
Department of Administrative Services
Department of Health

FIRST DAY - NOVEMBER 12, 1986

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October 1, 1986

Mr. President, Mr. Speaker
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Mr. President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the position of Acting Director, Nebraska Department of Aeronautics, requiring legislative confirmation.

Appointee:

Billie Frost, Lincoln, Nebraska, Term: October 1, 1986 - January 7, 1987.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) ROBERT KERREY
Governor

ATTORNEY GENERAL'S OPINIONS

Opinion No. 86054

DATE: July 10, 1986

SUBJECT: Permanent Transfer of County Road Funds to
Other County Accounts

REQUESTED BY: Senator Emil E. Beyer, Jr.
Nebraska State Legislature

WRITTEN BY: Robert M. Spire, Attorney General
Dale A. Comer, Assistant Attorney General

This opinion is in response to your correspondence of June 7, 1986, in which you stated that it had come to your attention that certain counties in Nebraska had transferred funds from their county road building funds to other accounts in order to finance other aspects of county government. You requested our opinion as to whether such transfers from a county road fund are permissible, and you noted

your interest in drafting legislation concerning this issue, if necessary. Our opinion is set out below.

At the outset, we would note that Nebraska counties may have a number of separate funds established for the construction and maintenance of roads and bridges. For example, Neb.Rev.Stat. §39-1637 (Reissue 1984) provides that, in certain counties, former townships shall be road districts, and tax levies for roads in those districts shall become a district road fund for the district in which the taxes are levied. Neb.Rev.Stat. §39-1649 (Reissue 1984) provides for a rural road improvement district fund. Neb.Rev.Stat. §39-802 (Reissue 1984) provides for a separate special emergency bridge fund. In addition to these and other special county road funds, the county budget document formulated by the state Auditor of Public Accounts under authority of Neb.Rev.Stat. §23-905 (Reissue 1983) contains separate sections for a county road fund and a county road-bridge fund. In your correspondence of June 7, you did not specify from which county road fund monies were transferred to finance other aspects of county government. We assume, therefore, that your question as to such transfers is intended to be general in nature.

In many instances, where our state statutes create a specific county road fund, those same statutes prohibit the use of those monies for any other purpose. For example, under Neb.Rev.Stat. §39-1637 (Reissue 1984), tax levies for a former township's district road fund must "(2) be used exclusively in improving the public highways in such district, and (3) not be transferred to any other fund." Moreover, Neb.Rev.Stat. §23-139 (reissue 1983) provides, in pertinent part,

Whenever a tax is levied for the payment of a specific debt, the amount of such tax collected shall be kept as a separate fund in the county treasury, and expended only in the liquidation of such indebtedness.

Obviously, under this statute it can be strongly argued that taxes levied for specific road funds must be used only for the purposes of those funds.

Neb.Rev.Stat. §23-912 (Reissue 1983) also provides:

The funds to be raised by taxation or otherwise, as provided and allowed in said budget, for the various offices, departments, activities, and funds of the county shall, upon the adoption of the budget, be deemed to be and be appropriated to the various offices, departments, activities, and funds as provided in said budget, and shall be used for no other purpose.

This statute provides that monies allocated to a particular fund in a county's budget document for a particular fiscal year are appropriated to that fund and may not be used for other aspects of county government. As a result of this statute, it is our view that

monies generally allocated to a county's road fund or road-bridge fund in a county's yearly budget may not be permanently transferred to other accounts to finance other county activities. We are aware of Neb.Rev.Stat. §23-918 (Reissue 1983) which allows a county board to obtain temporary loans to make additional appropriations in emergency situations. However, those temporary loans may not constitute a permanent reallocation of county funds.

In sum, there are a number of specific county road funds created by particular statutory provisions. In great part, those particular statutory provisions do not allow those county road funds to be used for other purposes. In any event, to the extent that a county board allocates monies to county road funds in any given fiscal year, those monies are considered appropriated to those funds, and may not be permanently transferred to other accounts.

Sincerely,
ROBERT M. SPIRE

Attorney General

(Signed) Dale A. Comer
Assistant Attorney General

DAC/bae

cc: Patrick J. O'Donnell
Clerk of the Legislature

Opinion No. 86063

DATE: August 14, 1986

SUBJECT: Land and Water Conservation Fund

REQUESTED BY: Dale R. Bree, Assistant Director, Nebraska
Game and Parks Commission

WRITTEN BY: Robert M. Spire, Attorney General
Linda L. Willard, Assistant Attorney General

QUESTION: Is a tribal governmental unit a recognized political subdivision of the state under the terms of the Land and Water Conservation Fund Act?

You have asked if, under Nebraska laws, a tribal governmental unit can be considered as a recognized political subdivision or public agency of the state and thus able to receive grants-in-aid pursuant to the terms of the Land and Water Conservation Fund, Neb.Rev.Stat. §37-427 et seq. (Reissue 1985). Your second question is if grants-in-aid are made available from the state's apportionment

under the Land and Water Conservation Fund Act, would the state have the necessary legal authority to enforce execution of the project and future operations and maintenance for public use in accordance with a project agreement or contract on lands owned and/or controlled by Indian tribal governing groups?

CONCLUSION: Our answer to your first question is No. Indian tribal units are not considered political subdivisions of the state government. A political subdivision is defined as "any division of a state made by the proper authorities thereof, acting within their constitutional powers, for the purpose of carrying out those functions of the state which by long usage and inherent necessities of government have always been regarded as public; a division of a parent entity for some governmental purpose. . . . Broadly speaking, a political subdivision of a state is a subdivision thereof to which has been delegated certain functions of local government." 72 C.J.S. 223.

Nebraska statutes contain a number of definitions of political subdivision in relation to specific acts. The broadest definition exists at Neb.Rev.Stat. §23-2301 (Reissue 1985) relating to emergency seats of local government. Section 23-2303 states:

The term political subdivision includes counties, townships, cities, villages, districts, authorities, and other public corporations and entities, whether organized and existing under direct provisions of the Constitution of Nebraska or statutes of this state, or by virtue of charters or other corporate articles or instruments executed under authority of such Constitution or laws.

Neither the Nebraska Constitution nor Nebraska statutes provide for the establishment of any tribal units. If, however, a city or village within tribal territory were to incorporate pursuant to the Nebraska statutes relating to incorporation of cities or villages, that city or village could be a political subdivision of the state.

The Land and Water Conservation Act at Neb.Rev.Stat. §37-428 provides in part: "The Game and Parks Commission may make grants-in-aid to political subdivisions of the state from money made available for matching purposes by state appropriations in amounts not exceeding twenty-five per cent of the cost of approved projects submitted by such political subdivisions." The statute also provides that land and water conservation funds may be invested. Since the statutes enacted by the Legislature of this state provide for only investment of these funds or for grants-in-aid to political subdivisions, grants to tribal units would be outside the statutory provisions. An Indian tribal unit is not a political subdivision, and, therefore, would not be eligible for grants pursuant to the Land and Water Conservation Fund as enacted by the Legislature of the State of Nebraska. The fact that the grants-in-aid would not be available to the tribal unit would make it unnecessary to ever be in a position

to enforce any terms of the grants. Thus, your second question is moot.

A grant-in-aid to any tribal unit could also raise a question of a possible constitutional violation. Article XIII, Section 3 of the Constitution of the State of Nebraska makes it unconstitutional to loan the credit of the state in aid of any individual, association, or corporation. The Land and Water Conservation Act provides for the appropriation of state funds on a matching basis with federal funds. These funds are then made available for the grants-in-aid. Because state funds are involved, any entity which is not a political subdivision of the state would raise serious questions under the above cited section of the state constitution.

Sincerely,
ROBERT M. SPIRE
Attorney General

(Signed) Linda L. Willard
Assistant Attorney General

LLW:bmh

cc: Patrick J. O'Donnell
Clerk of the Legislature

Opinion No. 86068

DATE: August 25, 1986

SUBJECT: Law Enforcement Improvement Fund

REQUESTED BY: Jim Joneson, Executive Director, Nebraska
Commission on Law Enforcement and Criminal
Justice

WRITTEN BY: Robert M. Spire, Attorney General
Linda L. Willard, Assistant Attorney General

You have asked if persons employed to supervise inmates in local jails fall within the definition of law enforcement officers contained in Section 81-1401(3) (a) (Reissue 1981). Section 81-1401 states that law enforcement officer shall mean "... any person who is responsible for the prevention or detection of crime or the enforcement of the penal, traffic, or highway laws of the state or any political subdivision thereof for more than 100 hours per year and is authorized by law to make arrests, . . ." (Emphasis added.) Neb.Rev.Stat. §29-401 (Reissue 1985) states, "Every sheriff, deputy sheriff, constable, marshal or deputy marshal, watchman, police

officer, or peace officers as defined in subdivision (15) of Section 49-801, shall arrest and detain any person found violating any law of this state, or any legal ordinance of any city or incorporated village, ..."

A civilian jail employee whose sole duties involve supervision of inmates and who would not have the statutory authority to arrest, would not be a law enforcement officer pursuant to these statutes. However, if a person is in charge of the supervision of prisoners and also has the authority to arrest individuals, then that person could qualify as a law enforcement officer.

Your second question is, if these individuals fall within the statutory definition of law enforcement officers, can jail personnel receive mandated training paid for through the Law Enforcement Improvement Fund (LEIF). As stated above, it is our determination that civilian personnel hired solely to supervise inmates would not qualify as law enforcement officers.

The legislation creating the Law Enforcement Improvement Fund, Neb.Rev.Stat. §81-1428 *et seq.* (Reissue 1981) states that the funds are to be used for the improvement of law enforcement at the municipal and county levels. There is nothing in the statutory language which would limit use of the funds to only law enforcement officers. If training of civilian jail personnel would improve law enforcement in the municipality or county, there would be no statutory bar to the use of LEIF funds to provide for that training.

Sincerely,
ROBERT M. SPIRE
Attorney General

(Signed) Linda L. Willard
Assistant Attorney General

LLW:bmh

cc: Patrick J. O'Donnell
Clerk of the Legislature

Opinion No. 86071

DATE: September 10, 1986

SUBJECT: Interest Rate on Delinquent Property Taxes

REQUESTED BY: Senator Elroy M. Hefner
Nebraska State Legislature

WRITTEN BY: Robert M. Spire, Attorney General
L. Jay Bartel, Assistant Attorney General

You have requested our opinion concerning the constitutionality of legislation proposing to reduce the present interest rate charged on delinquent property taxes. In addition, you have also asked whether legislation of this nature may constitutionally be applied retroactively so as to require the payment to taxpayers of refunds of interest on delinquent taxes previously paid. While you have not provided any specific legislative proposal for our consideration of these matters, we will attempt to provide some general guidance regarding the questions raised.

As to your first question, initial consideration must be given to the potential effect of Article VIII, Section 4, of the Nebraska Constitution, which provides, in pertinent part:

Except as to tax and assessment charges against real property remaining delinquent and unpaid for a period of fifteen years or longer, the Legislature shall have no power to release or discharge any county, city, township, town, or district whatever, or the inhabitants thereof, or any corporation, or the property therein, from their or its proportionate share of taxes to be levied for state purposes, or due any municipal corporation, nor shall commutation for such taxes be authorized in any form whatever, ...

In Steinacher v. Swanson, 131 Neb. 439, 268 N.W. 317 (1936), the court, while finding that a statute permitting delinquent real property taxes to be paid in ten equal annual installments contravened the constitutional provision prohibiting commutation of taxes in any form, stated that interest, penalties, and costs imposed for nonpayment of taxes are no part of the tax, and thus may be remitted by the Legislature without violating the proscription contained in Article VIII, Section 4. Subsequently, in Tukey v. Douglas County, 133 Neb. 732, 277 N.W. 57 (1938), the court reaffirmed its position that the various impositions made for the failure to pay taxes, whether designated as interest, penalties, or costs, are all in the nature of penalties, and are not part of the tax. Furthermore, holding that penalties for nonpayment of taxes are punitive in nature, and that their remission by the Legislature was not forbidden as arbitrary class legislation, the court in Tukey, supra, stated:

We necessarily conclude that interest charged against a delinquent taxpayer is in fact a penalty, that it is not a part of or incident to the tax and exists only by legislative pronouncement, that the legislature authorizing it has the power to remit or waive the penalties on unpaid and unsold taxes by a repeal of the original law or a new statute expressly doing so, and that a statute purporting to waive or remit a penalty is one of grace and not

subject to the uniformity provisions of section 18, art. III of the Constitution.

133 Neb. at 738-39, 277 N.W. at 60.

Therefore, based on the foregoing, it is our conclusion that, consistent with the principles enunciated in Tukey v. Douglas County, *supra*, the Legislature may validly enact legislation to reduce the present interest rate imposed on delinquent property taxes.

Your second question concerns whether the Legislature may enact legislation reducing the interest rate on delinquent property taxes and apply such legislation retroactively so as to require the payment to taxpayers of refunds of interest on delinquent taxes previously paid.

As a general rule, a statute may not operate retroactively where it would impair a contractual obligation or interfere with a vested right. State ex rel. Douglas v. Nebraska Mortgage Finance Fund, 204 Neb. 445, 283 N.W.2d 12 (1979). *See*, Neb. Const. Art. I, Section 16. While there appears to be no Nebraska case law specifically addressing the issue you raise, the Supreme Court of Washington, in Henry v. McKay, 164 Wash. 526, 3 P.2d 145 (1931), held the state could, by retroactive legislation, reduce the interest rate on unpaid delinquent taxes without impairing any contractual obligation or vested right. *See generally*, 72 Am. Jur. 2d State and Local Taxation, §§863-864 (1974).

With respect to the requirement of the retroactive payment of refunds of interest paid on delinquent taxes already collected, however, different constitutional considerations may arise which would render invalid such a requirement. In State ex rel. Crotty v. Zangerle, 133 Ohio St. 532, 14 N.E.2d 923 (1938), the court held a statute requiring that delinquent real estate tax penalties and interest properly paid between certain specified dates be refunded from the county treasury, without regard to whether the penalties and interest had been distributed to the taxing subdivisions entitled to receive them, was unconstitutional as denying equal protection of the law.

As was the case under Ohio law as described in Zangerle, *supra*, Nebraska law specifically provides for the distribution of interest collected on delinquent property taxes among the various governmental subdivisions and municipal corporations within the county. Neb.Rev.Stat. §77-1772 (Reissue 1981). Thus, it would appear that legislation imposing a refund requirement similar to that invalidated in Zangerle, *supra*, may well be declared unconstitutional on equal protection grounds.

Sincerely,
ROBERT M. SPIRE
Attorney General

(Signed) L. Jay Bartel

Assistant Attorney General

JLB:jem

cc: Patrick J. O'Donnell
Clerk of the Legislature

2/01

Opinion No. 86072

DATE: September 19, 1986

SUBJECT: Constitutionality Of Legislative Enactments For
Collective Bargaining With State Employees
And Legislative Authority To Determine
Employee Compensation.

REQUESTED BY: Senator Jerome Warner,
Chairman, Appropriations Committee.

WRITTEN BY: Robert M. Spire, Attorney General
Fredrick F. Neid, Assistant Attorney General

This is in response to your request for an opinion concerning constitutionality of legislation providing for statewide collective bargaining units and legislative authority to determine employee compensation.

First, you have inquired as to the constitutionality of a legislative enactment which would provide for the inclusion of state employees of different agencies, boards and commissions in statewide occupational bargaining units. Generally, there are no constitutional prohibitions which would restrict legislative enactments of this nature. In arriving at this conclusion, it is necessary to qualify the definition of state employees so as not to include constitutional and executive officers and members of independent boards and commissions whose compensation and term of office are otherwise set by the Constitution or by statute.

The recognition and creation of bargaining units within executive departments are not prohibited by the Constitution. The Legislature possesses the authority to grant the power of recognition of bargaining units to the court of industrial relations. American Fed. of S. C. & M. Empl. v. State, 200 Neb. 171, 263 N.W.2d 643 (1978). In this case, the Nebraska Supreme Court declined to distinguish between employees of the executive branch.

Under current law, the formation of labor organizations and the recognition of bargaining units is governed by Chapter 48, Article 8 of the Nebraska statutes. Under these statutes, state employees are

similarly treated for purposes of collective bargaining concerning terms, tenure and conditions of employment. The Nebraska Commission of Industrial Relations has the jurisdiction to determine questions of representation of state employees in employment matters. A review of court decisions involving standards and composition of bargaining units furnishes guidelines concerning whether statewide occupational bargaining units may include: (1) employees of an agency headed by a constitutional officer or officers with employees of another agency headed by a constitutional officer or officers; (2) employees of an agency headed by a constitutional officer or officers; or (3) employees of an agency not headed by a constitutional officer with employees of another agency not headed by a constitutional officer.

One general standard concerning bargaining units is the prohibition against "undue fragmentation". In Sheldon Station Employees Assn. v. N.P.P.D., 202 Neb. 391, 275 N.W.2d 816 (1979), it was held that bargaining units of employees of less than departmental size are not appropriate in cases of governmental subdivisions such as municipalities, counties, power districts, or utility districts with no prior history of collective bargaining. The Nebraska Supreme Court, in House Officers Assn. v. University of Nebraska Medical Center, 198 Neb. 697, 255 N.W.2d 258 (1977), provided the reasoning for the prohibition of undue fragmentation of bargaining units. It (undue fragmentation) fosters proliferation of personnel to bargain and administer contracts on both sides resulting in public institutions not being able to develop, administer and maintain any semblance or uniformity or coordination in their employment policies and practices.

A second standard which has been upheld by the courts is a prohibition against supervisory or managerial personnel entering into a bargaining unit with rank and file employees. Intl. Brotherhood of Elect. Workers v. Lincoln Elect. System, 222 Neb. 550, 385 N.W.2d 433 (1986), Neb. Assn. of Public Empl. v. Nebraska Game and Parks Commission, 197 Neb. 178, 247 N.W.2d 449 (1976).

Another general guideline or standard is the "community of interest" of the employees involved in the bargaining unit. The Nebraska Supreme Court, in American Assn. of University Professors v. Board of Regents, 198 Neb. 243, 253 N.W.2d 1 (1977), defined the issue as whether a community of interest exists among the employees which is sufficiently strong to warrant their inclusion in a single unit. In this case the Court held that established policies of the employer in establishing bargaining units of employees is not exclusive and that establishing a bargaining unit which included faculty at one campus and not faculty of a second campus was proper. The Court further held that the College of Law and College

of Dentistry was entitled to bargaining units separate from a unit for other faculty of the university campus and that department chairmen were properly included in bargaining units consisting of faculty members of the university. The Court pronounced that relevant factors in determining the composition of bargaining units include prior bargaining history, centralization of management (particularly in relation to labor relations), extent of employees interchange, degree of interdependence or autonomy of the facilities, differences or similarities in skills in relationship to each other, and the possibility of over fragmentation of bargaining units.

Accordingly, you are advised that the standards and guidelines articulated by the Nebraska Supreme Court serve to define the restrictions placed on state employee composition of statewide collective bargaining units.

You also have inquired whether there are other provisions of the Nebraska Constitution which would prohibit statewide occupational bargaining groups from including employees of any of these or other such departments particularly described or created by the Nebraska Constitution. There are no constitutional prohibitions for the same reasons set forth above. However, the guidelines and standards articulated by the Nebraska Supreme Court again would need be applied when formulating the composition, by legislation or otherwise, of employee groups to be included in occupational bargaining groups.

Second, you have generally inquired whether the Legislature may determine, either in substantive law or in the appropriations bills, that each state employee not subject to collective bargaining shall receive a salary increase. You are advised that the Legislature may provide for salary increases either in substantive law or in the appropriations bill. You have appropriately qualified or conditioned this type of legislative enactment to allow "flexibility to the agency head for promotions, merit increases, etc."

In general, the power and authority to fix terms and conditions including compensation for public employment resides with the Legislature subject to express constitutional limitations or delegation of this authority to an administrative agency or department. State ex rel. Beck v. Young, 154 Neb. 588, 48 N.W.2d 677 (1951), State ex rel. Randall v. Hall, 125 Neb. 236, 249 N.W. 756 (1933).

This authority extends over all state employees including employees of constitutional offices except where expressly limited by the Constitution or otherwise provided by law. You have appropriately recognized and listed certain express constitutional provisions relating to constitutional and other executive offices and for this reason, the provisions will not be repeated in this opinion.

You have raised the specific question whether the Legislature has the authority to direct salary increases for employees of constitutional offices or possibly for any nonlegislative departments. It is the opinion of this office that the Legislature does possess this authority subject to certain qualifications.

In responding to this question, it is important to recognize that there are inherent differences between offices created by statute and "constitutional offices" in that legislative control over constitutional offices is limited and the Legislature cannot abolish a constitutional office or change it except as expressly provided by the Constitution. State ex rel. Grant v. Eaton, et al., 114 Montana 199, 133 P.2d 588 (1943). The Nebraska Legislature has recognized this inherent distinction in certain legislative enactments relating to compensation and classification of state employees. Neb.Rev.Stat. §81-1331 (Reissue 1981) states:

As used in sections 81-1330 to 81-1335, state employee shall mean any employee of the state or of any state agency, specifically including all administrative, professional, academic, and other personnel of the University of Nebraska, the four state colleges, the technical community colleges, and the State Department of Education, but excluding any employee or officer of the state whose salary is set by the Constitution or by statute. (Emphasis added.)

Accordingly, any legislative enactment relating to employee compensation may not unduly influence or serve to control the operation of a constitutional office. If the Legislature mandated a specific salary increase which included employees of a constitutional office, the increase should be implemented unless the increase could not be reasonably implemented due to other fiscal constraints of the office or other factors. As you have recognized, sufficient fiscal flexibility should be provided an agency head for promotions, merit increases, etc., in legislative enactments which provide for certain salary increases to state employees. To conclude otherwise would result in the Legislature unduly controlling the management and administration of the office through legislation relating to compensation. The same principles or restrictions generally apply establishing certain benefit levels for state employees.

The Nebraska Supreme Court has dealt with this question in State Code Agencies Ed. Assn. v. Dept. of Publ. Institutions., 219 Neb. 555, 364 N.W.2d 44 (1985). In this case, our Court held that the allocation of funds among employees as salaries or wages is a matter of discretion in administration of the department or agency. It is important that this holding be considered in light of the fact that the appropriation bills enacted did not specifically allocate sums as wages

or salaries for particular jobs or positions of employment in those departments or agencies.

In conclusion, it is our opinion that legislative enactments for statewide occupational bargaining units would be valid if the standards and guidelines relative to the composition of bargaining units as enunciated by the courts are followed. The Legislature may determine by legislative enactment that eligible state employees shall receive specific salary increases if adequate discretion and flexibility is permitted an agency head to allocate other increases in administering those departments or agencies.

Very truly yours,
ROBERT M. SPIRE

Attorney General

(Signed)

Fredrick F. Neid

Assistant Attorney General

FFN:pjs

cc: Patrick J. O'Donnell
Clerk of the Legislature

Opinion No. 86075

DATE: October 23, 1986

SUBJECT: Constitutionality of the free nonresident high school tuition law, specifically, Neb.Rev.Stat. §79-4,102 (Supp. 1986).

REQUESTED BY: Senator Howard Lamb
Nebraska State Legislature

WRITTEN BY: Robert M. Spire, Attorney General
Harold Mosher, Assistant Attorney General

In your letter of inquiry you state that the "District Court of Scotts Bluff County recently ruled that LB 930 (Laws 1984) is unconstitutional in its entirety." As a result thereof, you state "a great many Nebraska high schools have given notice pursuant to Section 79-4,100 Neb. R.R.S. 1943 (Supp. 1986) that they will not serve nonresident students beginning in 1987-88." You then ask two (2) questions, each of which is hereinafter discussed.

1. "If LB 930 is in fact unconstitutional in its entirety, could not the high school districts set nonresident high school tuition based upon per pupil cost pursuant to LB 933 (Laws 1982) (the predecessor statute to LB 930) or, if LB 933 is also

unconstitutional, under its predecessor codified as Section 79,4,102 Neb. R.R.S. 1943?"

The District Court of Scotts Bluff County, Nebraska (hereinafter, District Court), did not, in our opinion, find section 1 of LB 930, Laws of Nebraska, Eighty-eighth Legislature, Second Session (1984), unconstitutional in its entirety. The District Court did find the Legislature had unconstitutionally delegated its authority in LB 930 when it granted receiving school districts the option of using the nonresident high school tuition charges certified by the State Department of Education or to set a nonresident high school tuition charge between a stated maximum and minimum. The District Court noted that the situation is analogous to "signing a blank check and leave the decision for the amount up to the recipient." Consequently, we can not answer your question in the form that it is cast even if it were otherwise proper for us to do so.

There is another reason why we can not answer your question. This office represents the State Department of Education which is one of the defendants in the case described and above and, together with the named school districts, have appealed that case to the Nebraska Supreme Court. The pre-hearing conference in that appeal was held yesterday and both the appellants and the appellees have raised a number of constitutional issues. Consequently, it would be improper for this office at this time to offer our opinion as to the course of action that school districts should take because the District Court has found a portion of section 1(2)(f) of LB 930 to be unconstitutional when one of the arguments that we intend to present to the Nebraska Supreme Court on appeal is that LB 930 is constitutional. We trust, however, that what we perceive to be the holding of the District Court (which is discussed above) is sufficient to permit you "to introduce legislation in the next session of the Legislature to correct the situation" should you deem it necessary or advisable.

2. "If high school districts may charge nonresident tuition equal to the cost per pupil to educate nonresident students then does not section 79-4,100 Neb. R.R.S. 1943 (Supp. 1986) require the high school districts currently serving nonresident students to continue to do so.?"

Obviously, a state cannot tax itself for the benefit of the people of another state. So too, the imposing of a tax on one municipality or part of the state, for the purpose of benefiting another municipality or part, violates the rule as to uniformity. No taxing district can be taxed for the exclusive benefit of another district. Thus, the ultimate question here is not whether high school districts may charge nonresident tuition equal to the cost per pupil (assuming it can be legally determined), but whether "the amount of nonresident high

school tuition as fixed in section 79,4102 is * * * compensatory." See, Neb.Rev.Stat. §79-4,100 (Supp. 1986). If it is not, "{a}ny public high school district may refuse admission to any or all nonresident pupils."

Sincerely,
ROBERT M. SPIRE
Attorney General
(Signed) Harold Mosher
Assistant Attorney General

HM:jem

cc: Patrick J. O'Donnell
Clerk of the Legislature

2/03

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 1. By DeCamp, 40th District.

A BILL FOR AN ACT relating to sales of farm products; to amend sections 9-307, 9-415, and 9-420, Uniform Commercial Code; to state intent; to define terms; to provide for a central filing system for effective financing statements; to provide duties; to provide fees; to harmonize provisions; to provide severability; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 2. By Nichol, 48th District.

A BILL FOR AN ACT relating to appropriations; to appropriate funds for the expenses incurred during the Eighty-ninth Legislature, Third Special Session; and to declare an emergency.

LEGISLATIVE BILL 3. By R. Johnson, 34th District.

A BILL FOR AN ACT relating to real estate; to amend section 76-1006, Revised Statutes Supplement, 1984, section 76-1012, Reissue Revised Statutes of Nebraska, 1943, as amended by section 6, Legislative Bill 999, Eighty-ninth Legislature, Second Session, 1986, and section 76-1008, Revised Statutes Supplement, 1984, as amended by section 5, Legislative Bill 999, Eighty-ninth Legislature, Second Session, 1986; to adopt the Farm Homestead Protection Act; to harmonize provisions; to provide severability; to repeal the original

sections, and also Laws 1986, LB 999, sections 1 and 4; and to declare an emergency.

EASE

The Legislature was at ease from 2:21 p.m. until 2:36 p.m.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the attached report on the following governor appointments.

Agriculture and Environment

James R. Gregg - Environmental Control Council
Don Hutchens - Director, Dept. of Agriculture
Charles A. Poremba - Environmental Control Council

Banking, Commerce and Insurance

Lee B. Jones - Research and Development Authority
Robert Allington, Ph.D. - Research and Development Authority
Thomas C. Smith - Research and Development Authority
Clifford Williams - Research and Development Authority
William Thiesen - Research and Development Authority
Steven E. Levy - Research and Development Authority
Steven Sherman - Research and Development Authority
Lewis E. Harris - Research and Development Authority
F. Gregory Hayden - Investment Council
Dennis D. Jorgensen - Investment Council

Education

James Symonds - Board of Educational Lands and Funds
Henry Krug, Jr. - Board of Educational Lands and Funds
Lorraine Giles - Safety Center Advisory Council
Jack Buist - Safety Center Advisory Council
Ken Sieckmeyer - Safety Center Advisory Council
Harold Sobotaka - Safety Center Advisory Council
Jack Swanson - Safety Center Advisory Council
Gerald Sughroue - Safety Center Advisory Council
Rollin Schneider - Safety Center Advisory Council
Charles Fairbanks - Safety Center Advisory Council
Larry Morris - Safety Center Advisory Council
James Preston - Safety Center Advisory Council

Fred Zwonechek - Safety Center Advisory Council
Gary Lund - Safety Center Advisory Council
Dr. Ken Kimball, M.D. - Safety Center Advisory Council
John Siefkes - Safety Center Advisory Council
Carol Cope - Safety Center Advisory Council
Robert Gunderson - Safety Center Advisory Council
Eric Seacrest - Coordinating Commission on Postsecondary
Education
David A. Domina - Board of Educational Lands and Funds
Beth Klosterman - Coordinating Commission on Postsecondary
Education
Wendall W. Wood - Coordinating Commission on Postsecondary
Education

Government, Military and Veterans Affairs

Lovie D. Broadus - State Personnel Board
Steven F. Danahy - State Personnel Board
Billie Frost - Acting Director, Dept. of Aeronautics
Larry Bare - Director, Dept. of Administrative Services

Health and Human Services

Mark Wittler - Rural Health Manpower Commission
Jan Spaulding - Foster Care Review Board
Chris Hanus - Foster Care Review Board
Dr. Tom Tonneges, M.D. - Nebraska Child Abuse Prevention Fund
Board
John Dudley, Ph.D. - Nebraska Child Abuse Prevention Fund
Board
Marietta Sims - Nebraska Child Abuse Prevention Fund Board
Kathy Campbell - Nebraska Child Abuse Prevention Fund Board
Karen Authier - Nebraska Child Abuse Prevention Fund Board
Jessie Rasmussen - Nebraska Child Abuse Prevention Fund Board
Deane Finnegan - Nebraska Child Abuse Prevention Fund Board
Dale B. Johnson - Director, Dept. of Public Institutions
Dr. Judy Butler - Rural Health Manpower Commission
Dr. L.C. Potts - Rural Health Manpower Commission
Dr. Perlita A. Narvaez - Rural Health Manpower Commission
Marita Fickes - Rural Health Manpower Commission
Jean Garten - Rural Health Manpower Commission
Marcia Goering - Rural Health Manpower Commission
James W. Kenney - State Board of Health
Dr. Jeanette Masek, M.D. - State Board of Health
Janet Coleman - State Board of Health

LEGISLATIVE JOURNAL

Arlene Rhodes - State Board of Health
 Larry Bartels - State Board of Health
 Dr. Craig B. Nelson - State Board of Health

Judiciary

Shirley Howell - Crime Victims Reparation Committee
 Professor Gaylon L. Kuchel - Crime Victims Reparation Committee
 Keith Lant - Crime Victims Reparation Committee
 John Paris - Crime Victims Reparation Committee
 Marlene Cupp - Crime Victims Reparation Committee

Miscellaneous Subjects

Gale Sup - Accountability and Disclosure Commission
 Paul Mead - State Electrical Board
 Chris L. Saltzgaber - State Electrical Board
 William M. Whitmern - State Electrical Board
 Burl M. Johnson - Accountability and Disclosure Commission
 Gail Walling Yanney - Arts Council
 Bob Johnston - Arts Council
 Phyllis Narveson - Arts Council
 Carmen Messineo - Arts Council
 Catherine Ferguson - Arts Council
 Luigi Waites - Arts Council
 Michael F. Kinney - Accountability and Disclosure Commission

Public Works

Clifford E. Langel - Motor Vehicle Industry Licensing Board
 P.J. Morgan - Motor Vehicle Industry Licensing Board
 Harold C. Tremain - Oil and Gas Commission
 James (Sonny) Eatmon - Oil and Gas Commission
 Jim Earp - Motor Vehicle Industry Licensing Board

The Legislative Council Executive Board submits the attached report on the referral of legislative bills 1, 2, and 3.

LB	Committee
1	Banking, Commerce and Insurance
2	General File
3	Judiciary

(Signed) Cal Carsten, Chairperson
 Legislative Council

Executive Board

RESOLUTION

LEGISLATIVE RESOLUTION 1.

Introduced by DeCamp, 40th District.

WHEREAS, President George Washington led this nation victoriously against the tyranny of King George and showed great wisdom and prudence forging this nation; and

WHEREAS, President Abraham Lincoln preserved the union of this nation during its most difficult and darkest times during the Civil War; and

WHEREAS, in recognition of their achievements, Presidents Washington and Lincoln are honored by a national holiday, President's Day; and

WHEREAS, the Unicameral honors these two great Americans and preserves their memories.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETIETH LEGISLATURE OF NEBRASKA, THIRD SPECIAL SESSION:

1. That the portraits of Presidents Washington and Lincoln be hung in the legislative chamber.

Laid over.

ADJOURNMENT

At 2:39 p.m., on a motion by Mrs. Smith, the Legislature adjourned until 9:00 a.m., Thursday, November 13, 1986.

Patrick J. O'Donnell
Clerk of the Legislature



SECOND DAY - NOVEMBER 13, 1986

LEGISLATIVE JOURNAL

SECOND DAY - NOVEMBER 13, 1986

LEGISLATIVE JOURNAL

**EIGHTY-NINTH LEGISLATURE
THIRD SPECIAL SESSION**

SECOND DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, November 13, 1986

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Nichol presiding.

PRAYER

The prayer was offered by Dr. Robert Palmer, Westminster Presbyterian Church, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Messrs. Beyer, Conway, Eret, Hartnett, V. Johnson, Sieck, and Mrs. Marsh who were excused.

CORRECTIONS FOR THE JOURNAL

The Journal for the First Day was approved.

**NOTICE OF COMMITTEE HEARINGS
Banking, Commerce and Insurance**

LB 1 Friday, November 14, 1986 10:00 a.m.

Governor Appointments Friday, November 14, 1986 10:00 a.m.

Research and Development Authority

Lee B. Jones
Robert Allington, Ph.D.
Thomas C. Smith
Clifford Williams
William Thiesen

Steven E. Levy
Steven Sherman
Lewis E. Harris

Investment Council
F. Gregory Hayden
Dennis D. Jorgensen

(Signed) John DeCamp, Chairperson

Judiciary

LB 3 Friday, November 14, 1986 10:00 a.m.

(Signed) Peter Hoagland, Chairperson

Public Works

Governor Appointments Tuesday, November 18, 1986 1:15 p.m.

Motor Vehicle Industry Licensing Board
Clifford E. Langel (Reappointed)
P.J. Morgan (Reappointed)
Jim Earp

Oil and Gas Commission
Harold C. Tremain
James (Sonny) Eatmon

(Signed) Loran Schmit, Chairperson

REPORTS

The following reports were received by the Legislature:

Statement of deposits to the Highway Cash Fund and Roads Operation Cash Fund for the calendar months of April through September, 1986 from the Nebraska Department of Roads in compliance with Section 66-476, R.S. Supp. 1980.

Quarterly reports from the Nebraska Department of Roads for the Nebraska State Highway Commission for March through September.

Minutes of the Board of Public Roads Classifications and Standards for March through July, and September, 1986.

Annual report from the Nebraska Public Counsel/Ombudsman pursuant to Section 81-8,251, R.R.S., 1943.

Annual Early Childhood Licensing report from the Nebraska Department of Social Services.

Annual Report and Plan of Work for the Nebraska State Water Planning and Review Process from the Director of Natural Resources in accordance with Section 2-15106 Nebraska Revised Statutes (R.S. Supp. 1984).

Reports from the Nebraska Department of Personnel of the annual salary survey in accordance with Section 81-1337.

Individual reports of all loans made under the Agricultural Division of the Nebraska Investment Finance Authority pursuant to Section 45 of LB 626, 1983.

Certified copy of the Grade A Pasteurized Milk Ordinance from the United States Public Health Service/Food and Drug Administration in accordance with Sections 2-3901, R.S. Supp. 1986.

Semi-annual report from the Department of Environmental Control, showing the financial status of Program #518, Construction Grants in accordance with Section 81-1533 Reissue Revised Statutes of Nebraska, 1943.

Report of examination of State of Nebraska Auditor of Public Accounts in accordance with Statute 81-106.

Annual report of motor vehicle traffic accident data from the Department of Roads, Highway Safety Division.

Audit reports from the Auditor of Public Accounts for the following: Public Employees' Retirement Board, Department of Roads, State Treasurer of Nebraska, Department of Aeronautics, Legislative Council, Department of Revenue, Nebraska Technical Community College Areas, Department of Correctional Services, Nebraska State Historical Society, and State Athletic Commission.

Annual Status Report for Fiscal Year 1985-1986 for the Nebraska Department of Economic Development as required by 81-1201.11, Nebraska Statutes (LB 965, 1986 Session).

Biennial report from the Natural Resources Commission of the Nebraska Resources Development Fund Act pursuant to Section 2-1588 R. S. Supp., 1986.

Annual Budgetary report from the Department of Administrative Services, Accounting Division.

COMMUNICATIONS

Received the following resolutions from the various states as follows:

Senate Concurrent Resolution No. 1643 from the State of Kansas relating to the collection of sales and use taxes on out-of-state mail order sales.

Senate Resolution 376 from the State of Georgia in regard to the authorization of public schools conducting a brief period of voluntary silent prayer, meditation, or contemplation at the opening of each school day.

Senate Concurrent Resolution No. 110 from the State of Iowa regarding the federal government's policy of requiring a minimum interest rate of nine percent on farm contract sales.

House Concurrent Resolution No. 156 from the State of Louisiana in regard to the participation in the food stamp program by states who impose either a state or local sales tax on purchases made with United States Department of Agriculture food coupons.

Senate Concurrent Resolution No. 54 from the State of Louisiana in regard to permitting states to require nonresident dealers to collect sales tax on items that are to be brought into the state.

A resolution from the State of Pennsylvania in regard to health and life insurance coverage for its retirees.

Senate Resolution, Serial No. 180 from the State of Pennsylvania in regard to the prisoners of war and missing Americans in various areas of Southeast Asia.

RESOLUTION

LEGISLATIVE RESOLUTION 2.

Introduced by Wesely, 26th District.

WHEREAS, Goodyear Tire and Rubber Co. has been a major employer and good corporate citizen of Nebraska since 1943; and

WHEREAS, Goodyear Tire and Rubber Co. currently employs over two thousand Nebraskans in its Lincoln and Norfolk plants; and

WHEREAS, Goodyear Tire and Rubber Co. provides over sixty-five million dollars in salaries annually to Nebraska employees; and

WHEREAS, Goodyear Tire and Rubber Co. provides over two and one half million dollars in annual tax revenues in Nebraska; and

WHEREAS, Goodyear Tire and Rubber Co. assists the local and state economies through purchases of over six million dollars in retail goods from Nebraska businesses; and

WHEREAS, management and employees of Goodyear Tire and Rubber Co. in Nebraska have worked as partners in providing the potential and commitment necessary to encourage the growth and expansion of its manufacturing operations in Nebraska.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE EIGHTY-NINTH LEGISLATURE OF NEBRASKA, THIRD SPECIAL SESSION:

1. That the management and employees of Goodyear Tire and Rubber Co. be commended for their hard work and commitment in making Goodyear Tire and Rubber Co. a model corporate citizen of the state and country.

2. That the management and employees of Goodyear Tire and Rubber Co. be commended for their efforts to resist the hostile takeover attempt by foreign investors.

3. That the Congress and the President be encouraged to consider policies that would protect domestic corporations from similar takeover attempts in the future.

Laid over.

ADJOURNMENT

At 9:11 a.m., on a motion by Mrs. Nelson, the Legislature adjourned until 9:30 a.m., Friday, November 14, 1986.

Patrick J. O'Donnell
Clerk of the Legislature

THIRD DAY - NOVEMBER 14, 1986**LEGISLATIVE JOURNAL****EIGHTY-NINTH LEGISLATURE
THIRD SPECIAL SESSION****THIRD DAY**

Legislative Chamber, Lincoln, Nebraska
Friday, November 14, 1986

Pursuant to adjournment, the Legislature met at 9:30 a.m., Speaker Nichol presiding.

PRAYER

The prayer was offered by Dr. Robert Palmer, Westminster Presbyterian Church, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Messrs. Beyer, Hannibal, Hartnett, V. Johnson, Landis, Rupp, and Mrs. Marsh who were excused.

CORRECTIONS FOR THE JOURNAL

Page 48, line 15, insert "Hannibal" after "Eret".
The Journal for the Second Day was approved as corrected.

NOTICE OF COMMITTEE HEARINGS**Education**

Governor Appointments Tuesday, November 18, 1986 12:00 noon

Safety Center Advisory Council
Lorraine Giles
Jack Buist
Ken Sieckmeyer

Harold Sobotaka
Jack Swanson
Gerald Sughroue
Rollin Schneider
Charles Fairbanks
Larry Morris
James Preston
Fred Zwonechek
Gary Lund
Dr. Ken Kimball
John Siefkes
Carol Cope
Robert Gunderson

Coordinating Commission on Postsecondary Education

Eric Seacrest
Beth Klosterman

Board of Educational Lands and Funds

James Symonds
Henry Krug, Jr.

(Signed) Tom Vickers, Chairperson

Judiciary

Governor Appointments Tuesday, November 18, 1986 1:00 p.m.

Crime Victims Reparation Committee

Shirley Howell
Professor Gaylon L. Kuchel
Keith Lant
John Paris
Marlene Cupp

(Signed) Peter Hoagland, Chairperson

Government, Military and Veterans Affairs

Governor Appointments Monday, November 17, 1986 1:00 p.m.

Lovie Broadus - State Personnel Board
Steven Danahy - State Personnel Board
Billie Frost - Acting Director, Dept. of Aeronautics
Larry Bare - Director, Dept. of Administrative Services

(Signed) David Landis, Chairperson

Health and Human Services

Governor Appointments Tuesday, November 18, 1986 3:30 p.m.

Foster Care Review Board

Chris Hanus
Jan Spaulding

Nebraska Child Abuse Prevention Fund Board

Dr. Tom Tonneges
John Dudley
Marietta Sims
Kathy Campbell
Karen Authier
Jessie Rasmussen
Deane Finnegan

Rural Health Manpower Commission

Dr. Judy Butler
Dr. L.C. Potts
Dr. Perlita A. Narvaez
Marita Fickes
Jean Garten
Marcia Goering

State Board of Health

James W. Kenney
Dr. Jeanette Masek
Janet Coleman
Arlene Rhodes
Larry Bartels
Dr. Craig B. Nelson

Department of Public Institutions

Dale B. Johnson, Director

(Signed) Don Wesely, Chairperson

RESOLUTIONS

LEGISLATIVE RESOLUTION 2. Read. Considered.

Mr. Harris asked unanimous consent to have his name added as co-introducer to LR 2. No objections. So ordered.

Mr. DeCamp requested a record vote on the adoption of the resolution.

Voting in the affirmative, 34:

Abboud	Hall	Labeledz	Pappas	Sieck
Baack	Harris	Lamb	Peterson	Smith
Carsten	Hefner	Lundy	Pirsch	Vickers
Chizek	Higgins	Lynch	Remmers	Warner
Conway	Hoagland	McFarland	Rogers	Wesely
Eret	Johnson, L.	Morehead	Schmit	Withem
Goodrich	Johnson, R.	Nelson	Scofield	

Voting in the negative, 1:

DeCamp

Present and not voting, 7:

Barrett	Chronister	Haberman	Miller	Nichol
Chambers	Goll			

Excused and not voting, 7:

Beyer	Hartnett	Landis	Marsh	Rupp
Hannibal	Johnson, V.			

LR 2 was adopted with 34 ayes, 1 nay, 7 present and not voting, and 7 excused and not voting.

LEGISLATIVE RESOLUTION 3.

Introduced by Vickers, 38th District; Schmit, 23rd District.

WHEREAS, the current and ongoing economic slump in agriculture threatens many farm families with bankruptcy which, in turn, threatens communities and businesses across the state; and

WHEREAS, efforts to keep Nebraska's communities alive and healthy are closely tied to the successful restoration of productivity, population, and profit in rural Nebraska; and

WHEREAS, in general, a farm foreclosure only assures that another family will leave the farm and the local community; and

WHEREAS, there is an urgent need to expend the maximum statewide effort to find alternatives to farm foreclosures and bankruptcies and the drain which such economic hardships place on the human and economic resources of our state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE EIGHTY-NINTH LEGISLATURE OF NEBRASKA, THIRD SPECIAL SESSION:

1. That it is the will and intent of the Legislature that the Farm Mediation Task Force appointed by the Department of Agriculture continue to explore all avenues for the creation of a statewide mediation process for farm debt in Nebraska.

2. That it is the intention of the Legislature that the goal of the task force be to design a mediation process which should include, but not be limited to, the following features:

a. A fair and balanced governing board and cost-effective, impartial administration;

b. Availability and equal accessibility to all farmers, ranchers, and lenders;

c. Provisions for the adequate preparation of parties prior to mediation;

d. A cooperative program which will strengthen relationships between parties and provide a basis for future cooperation;

e. Allowance for exploration of the legitimate and fair interests of all the parties involved in mediation;

f. Designed to avoid, if possible, the legal expense and delays of bankruptcy; and

g. A fair and speedy process which may result in an agreement between parties.

3. That it is the intent of the Legislature that a proposal or recommendations for a statewide mediation process be developed as quickly as possible in light of the troubled agricultural economy.

4. That the proposal or recommendation be returned to the members of the Legislature no later than January 7, 1987, for consideration during the 1987 session.

5. That copies of this resolution be sent to the members of the Farm Mediation Task Force in care of the Department of Agriculture: Lieutenant Governor Don McGinley, Judge Sam Van Pelt, Katherine Severens, chairperson, Leo Lucas, Don Svoboda, David Aiken, Sister Timothy O'Roark, and Don Hutchins.

Laid over.

ATTORNEY GENERAL'S OPINION

Opinion No. 86077

DATE: November 13, 1986

SUBJECT: Constitutionality of Sales Tax Exemption
for Farm Machinery and Repair Parts

REQUESTED BY: Senator Rex Haberman
Nebraska State Legislature

WRITTEN BY: Robert M. Spire, Attorney General
L. Jay Bartel, Assistant Attorney General

You have requested our opinion regarding the constitutionality of proposed legislation to provide a sales tax exemption for purchases of farm machinery and repair parts. You state that the proposed exemption would be similar to the sales tax exemption presently granted under Neb.Rev.Stat. §77-2702(11)(f) (Supp. 1985) on purchases of materials and replacement parts used to repair, maintain, or manufacture railroad rolling stock and common or contract carrier vehicles. Your specific question is whether the granting of such a sales tax exemption for farm machinery and repair parts would violate the uniformity and proportionality requirements of Article VIII, §1 of the Nebraska Constitution.

Article VIII, §1, provides in part as follows:

The necessary revenue of the state and its governmental subdivisions shall be raised by taxation in such manner as the Legislature may direct. Taxes shall be levied by valuation uniformly and proportionately upon all tangible property and franchises. . . . Taxes, other than property taxes, may be authorized by law. . . .

As a general rule, statutes imposing sales taxes are considered to be in the nature of excise taxes, and not property taxes. Therefore, statutes imposing sales taxes have been held not violative of constitutional declarations providing that taxes on property must operate equally or uniformly upon the same class of subjects, because such constitutional provisions apply only to property taxes, and not to excise taxes. 68 Am.Jur.2d Sales and Use Taxes §84, 27 (1973).

Recently, in State v. Galven, 221 Neb. 497, 378 N.W.2d 182 (1985), the Nebraska Supreme Court held that a fee of \$.25 per head to be collected on all cattle sold in Nebraska was an excise tax, and, therefore, was not required to be enforced uniformly and proportionately by virtue of Article VIII, §1, as these requirements apply only to property taxes. In reaching this conclusion, the court stated the following regarding the interpretation of Article VIII, §1:

In Anderson v. Tiemann, 182 Neb. 393, 155 N.W.2d 322 (1967),

we held that a tax imposed upon the privilege of doing business and called a franchise tax was in fact an excise tax and not a property tax and, as such, was not required to be levied by valuation uniformly and proportionately. Such a view is totally consistent with the language of Neb. Const. art. VIII, §1. To begin with, article VIII, §1, provides that “{t}he necessary revenue of the state and its governmental subdivisions shall be raised by taxation in such manner as the Legislature may direct.” (Emphasis supplied.) By such direction the Legislature is not limited to imposing property taxes but may, in fact, impose taxes other than property taxes. Moreover, article VIII, §1, further provides that “{t}axes, other than property taxes, may be authorized by law.” These two provisions make it clear that all taxes need not be property taxes. A further reading of article VIII, §1, makes it clear that only property taxes must be uniform and proportionate. The language of the Constitution reads: “Taxes shall be levied by valuation uniformly and proportionately upon all tangible property and franchises. . . .” If article VIII, §1, consisted only of that sentence, one might argue that “taxes” refers to all taxes. But when it is read with the preceding sentence, which states that “{t}he necessary revenue of the state and its governmental subdivisions shall be raised by taxation in such manner as the Legislature may direct,” and which is followed by the language “{t}axes, other than property taxes, may be authorized by law,” it becomes clear that the reference to “taxes” which must be levied uniformly and proportionately refers to taxes upon “all tangible property and franchises” as a property tax and not as an excise tax. . . . We therefore believe that as an excise tax its imposition need not be uniform and proportionate but, as here, may be upon each transaction.

221 Neb. at 502-03, 378 N.W.2d at 186-87. (Citations omitted).

Therefore, as sales taxes are, by nature, excise taxes, their imposition is not subject to the uniformity and proportionality requirements of Article VIII, §1 of the Nebraska Constitution, which apply only to property taxes. Accordingly, we conclude the sales tax exemption you propose on transactions involving farm machinery and repair parts would not raise any potential violation of this particular constitutional provision.

Sincerely,
ROBERT M. SPIRE
Attorney General

(Signed) L. Jay Bartel
Assistant Attorney General

cc: Patrick J. O'Donnell
Clerk of the Legislature

2/04

UNANIMOUS CONSENT - Print in Journal

Mr. Chambers asked unanimous consent to print the following amendment to LR 1 in the Journal. No objections. So ordered.

Add the following:

WHEREAS President George Washington was a slaveholder; and
WHEREAS President Abraham Lincoln was opposed to civil and
political rights for Black people;

ADJOURNMENT

At 10:04 a.m., on a motion by Mr. Sieck, the Legislature adjourned
until 9:30 a.m., Monday, November 17, 1986.

Patrick J. O'Donnell
Clerk of the Legislature

FOURTH DAY - NOVEMBER 17, 1986

LEGISLATIVE JOURNAL

**EIGHTY-NINTH LEGISLATURE
THIRD SPECIAL SESSION**

FOURTH DAY

Legislative Chamber, Lincoln, Nebraska
Monday, November 17, 1986

Pursuant to adjournment, the Legislature met at 9:30 a.m., Speaker Nichol presiding.

PRAYER

The prayer was offered by Dr. Robert Palmer, Westminster Presbyterian Church, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Messrs. Beyer, Hannibal, and Miller who were excused; and Messrs. Abboud, Baack, Chizek, Conway, Eret, Hartnett, Hoagland, V. Johnson, McFarland, Remmers, Rupp, and Wesely who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Third Day was approved.

**STANDING COMMITTEE REPORT
Banking, Commerce and Insurance**

LEGISLATIVE BILL 1. Placed on General File as amended.
Standing Committee amendment to LB 1:
AM013S

- 1 1. On page 3, line 22, strike "the name" and
- 2 insert "a description".
- 3 2. On page 9, line 15, after the period
- 4 insert "The fee for annual registration shall be thirty

dollars.”; and strike lines 16 through 21 and insert:

“A registrant shall pay an additional annual fee to receive quarterly lists described in subdivision (4) of this section, except that the first fee for a list shall be for calendar years 1986 and 1987. For each farm product list provided on microfiche, the annual fee shall be twenty-five dollars. For each farm product list provided on paper, the annual fee shall be one hundred dollars. The annual fee for a special list which is a list limited to fewer than all counties or less than all crop years shall be one hundred fifty dollars for each farm product.”.

3. On page 16, line 5, after the period insert “If there is a conflict between such rules and regulations and sections 1 to 21 of this act, the federal rules and regulations shall apply.”.

4. On page 17, in lines 2, 5, 9, and 14 strike “person” and insert “buyer in the ordinary course of business”; in line 11 strike “person” and insert “buyer”; in line 16 after “check” insert “or other instrument”; in line 17 after “holder” insert “of the seller”; in line 18 after “system” insert “for such products”; in line 19 after “check” insert “or other instrument.”; and in line 20 after “endorsement” insert “and payment thereof”.

5. On page 24, line 3, before “There” insert “(1)”; in line 5 strike “15 and 18” and insert “13 and 16”; in line 11 after “out” insert “subsection (2) of this section.”; in line 12 after “Code” insert an underscored comma; after line 13 insert the following new subsection:

“(2) The Secretary of State shall furnish each county clerk a printer compatible with the centralized computer system established pursuant to section 9-415 so the county clerk is able to mail written confirmation of inquiries by the end of the next business day as required by section 16 of this act.”; and in line 19 strike “9-307,” and strike the second comma.

6. Insert the following new sections:

“Sec. 25. Sections 22 and 27 of this act shall become operative on December 24, 1986. The other sections of this act shall become operative on their effective date.

Sec. 27. That original section 9-307, Uniform Commercial Code, is repealed.”.

- 5 7. Renumber remaining sections accordingly.

(Signed) John DeCamp, Chairperson

UNANIMOUS CONSENT - Add Co-Introducer

Mr. Peterson asked unanimous consent to have his name added as co-introducer to LR 2. No objections. So ordered.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following resolution: LR 2.

REPORT OF REGISTERED LOBBYISTS

In accordance with LB 987, passed in the 1976 session of the Legislature and amended by LB 4 and LB 41 in the 1977 session of the Legislature, the attached is a list of all Lobbyists who have registered as of November 14, 1986. Further lists listing additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell
Clerk of the Legislature

Andrews, Dr. Donald - Omaha (Withdrawn 86/09/01), Omaha Board of Education (Withdrawn 86/09/01)
Apking, Sharon - Alexandria, Nebraska Rural Community School Association (Withdrawn 86/07/29)
Ayres, Joseph Warren - Lincoln, Nebraska Society for Medical Technology
Ayres, Joseph Warren - Lincoln, Nebraska Society of Independent Accountants (Withdrawn 86/08/29)
Ayres, Joseph Warren - Lincoln, Nebraska Society of Radiologic Technologists
Bailey, Rodger - Minneapolis, MN (Withdrawn 86/04/15), First Bank Systems (Withdrawn 86/04/15)
Bauer, Rosemary - Omaha, Horsemen's Benevolent Protective Association (Withdrawn 85/12/31)
Belford, Paula - Lincoln (Withdrawn 86/03/31), Sierra Club, Nebraska Chapter (Withdrawn 86/08/22)
Beverage, Roger M. - Omaha, U.S.A.A. Federal Savings Bank (Withdrawn 86/08/22)
Brown, James A. - Lincoln, Nebraska Association of Community Mental Health Centers (Withdrawn 85/05/31)

- Buckley, Mary G. - Denver, CO (Withdrawn 86/07/10), MCI Telecommunications Corporation
- Castellano, Peter A. - Lincoln (Withdrawn 86/04/15), Lombardi, Richard
- Christensen, Jeffrey S. - Kearney (Withdrawn 85/06/06), Communicating for Agriculture (Withdrawn 85/06/06)
- Cutshall, Bruce A. - Lincoln, FirstTier Bank, National Association-Lincoln, formerly First National Bank & Trust Company
- Fischer, Thomas B. - Lincoln, FirstTier Bank, National Association-Lincoln, formerly First National Bank & Trust Company
- Goc, John J. - Lincoln, City of Lincoln
- Hart, Jack - Lincoln (Withdrawn 86/07/03), City of Lincoln
- Hawco, Thomas M. - Lincoln (Withdrawn 86/11/03), NE State Association of Life Underwriters
- Hedden, Herbert A. - Washington, DC (Withdrawn 86/02/28), International Franchise Association (Withdrawn 86/02/28)
- Hughes, E. Bryant - Little Rock, AR (Withdrawn 86/08/19), American Medical International (Withdrawn 86/08/19)
- Jenkins, G. Willard - Waterloo, IA (Withdrawn 86/04/14), Deere & Company
- Jones, Tom A. - Austin, TX (Withdrawn 86/04/16), AT&T Company
- Lineweber, Ray L. - Lincoln, Nebraska Livestock Markets Association (Withdrawn 86/04/24), Webcraft Games, Inc. (Withdrawn 86/05/05)
- McCullough, Mardy - Grant, Lottery Consultants of Nebraska (Withdrawn 86/08/12)
- Moody, Randall J. - Lincoln Lincoln International Brotherhood of Police Officers
- Moody, Randall J. - Lincoln (Withdrawn 86/06/01), O'Hara & Associates, Inc. (Withdrawn 86/06/01)
- Murphy, Lawrence E. - Lincoln (Withdrawn 86/05/01), Nebraska Chiropractic Physicians Association, Inc. (Withdrawn 86/05/01)
- O'Hara & Associates, Inc. - Lincoln, Enron, Inc. formerly HNG InterNorth
- Pack, Mary M. - Lincoln, Radcliffe, Walter/Tews & Radcliffe
- Parker, David R. - Lincoln, Project Justice, Inc.
- Peters, Paul F. - Omaha (Withdrawn 86/05/31), Papio Natural Resources District (Withdrawn 86/05/31)
- Peterson, Elizabeth A. - Lincoln (Withdrawn 85/06/06), Nebraska Coalition For Women (Withdrawn 85/06/06)
- Radcliffe, Walter H. - Lincoln, Nebraska Health Care Association
- Reed, Jay B. - Denver, CO, MCI Telecommunications Corporation

Reynolds IV, Horace H. - Omaha (Withdrawn 86/04/30), Nebraska Credit Union League, Inc. (Withdrawn 86/04/30)
Ryan, James E. - Lincoln, Domestic Preference Premium Tax Group (Withdrawn 86/05/31)
Ryan, James E. - Lincoln, Project Justice, Inc.
Ryan, James E. - Lincoln, Wyoming Fuel Company (Withdrawn 86/04/17)
Sibley, Stan - Omaha, Omaha Public Schools
Smith, R. Clint - Austin, TX, AT&T Company (Withdrawn 86/03/31)
Sullivan-Arthur & Associates - Lincoln, Association of Independent College & Universities of Nebraska Inc. (Withdrawn 86/04/16)
Sundberg, Kristine - Minneapolis, MN, Minnegasco, Inc. (Withdrawn 86/03/31)
Treadway, Tom - Austin, TX, AT&T Company (Withdrawn 86/03/31)
Wallis, Gerald L. Omaha, Christian Science Committee on Publication for Nebraska (Withdrawn 85/12/31)
Williamson, Lyle R. - Denver, CO, MCI Telecommunications Corporation

ATTORNEY GENERAL'S OPINION

Opinion No. 86078

DATE: November 14, 1986

SUBJECT: Scope of Governor's Special Session Call

REQUESTED BY: Senator John W. DeCamp

WRITTEN BY: Robert M. Spire, Attorney General
L. Jay Bartel, Assistant Attorney General

You have requested our opinion as to whether the enactment of legislation to repeal Laws 1986, LB 999, would be within the scope of the subjects listed in the Governor's proclamation calling the Legislature into special session.

Article IV, Section 8 of the Nebraska Constitution, provides:

The Governor may, on extraordinary occasions, convene the Legislature by proclamation, stating therein the purpose for which they are convened, and the Legislature shall enter upon no business except that for which they were called together.

The last portion of this constitutional provision places an express limitation on the power of the Legislature to act during a special session. In Arrow Club, Inc. v. Nebraska Liquor Control

Commission, 177 Neb. 686, 689, 131 N.W.2d 134, 137 (1964), the court, discussing the nature of this limitation, stated:

It is well established that the Legislature while in special session can transact no business except that for which it was called together. *Chicago, B. & Q. R.R. Co. v. Wolfe*, 61 Neb. 502, 86 N.W. 441. The proclamation may state the purpose for which the Legislature is convened in broad, general terms or it may limit the consideration to a specified phase of a general subject. The Legislature is free to determine in what manner the purpose shall be accomplished, but it must confine itself to the matters submitted to it by the proclamation.

The court in Arrow Club, supra, quoting at length from the Pennsylvania Supreme Court's decision in Commonwealth ex rel. Schnader v. Liveright, 308 Pa. 35, 161 A. 697 (1932), continued as follows:

"This constitutional provision contemplates that there shall first exist in the executive mind a definite conception of the public emergency which demands an extraordinary session. His mental attitude or intention is expressed in his proclamation, the purpose of which is to inform the members of the legislature of subjects for legislation, and to advise the public generally that objections may be presented if desired. It is not only a guide or chart with respect to which the legislature may act, but also a check restricting its actions so that rights may not be affected without notice. The proclamation may contain many or few subjects according to the governor's conception of the public need. While the subjects may be stated broadly or in general terms, the special business, as related to the general subject on which legislation is desired, should be designated by imposing qualifying matter to reduce or restrict. Although the subjects should be sufficient to evoke intelligent and responsive action from the legislature, it is not necessary that they include all the methods of accomplishment. The guiding principle in sustaining legislation of a special session is that it be germane to, or within, the apparent scope of the subjects which have been designated as proper fields for legislation. In construing a call the words of any portion thereof must be interpreted not only as commonly and universally understood, but also as applicable to the subject intended to be affected by legislation.

While the legislature must confine itself to the matters submitted, it need not follow the views of the governor or legislate in any particular way. Within the special business or designated subjects submitted, the legislature cannot be restricted or dictated to by the governor. It is a free agent, and the governor, under the guise of definition, cannot direct or control its action."

Id. at 689-90, 131 N.W.2d at 137. (Emphasis added).

The decision in Arrow Club, supra, reflects certain general principles regarding the limitations imposed on legislative action by virtue of the scope of the executive's call for a special legislative session. First, courts uniformly agree that, for a legislative enactment to be valid under the call, the legislation must be "germane" or "related to" the subjects stated in the call. Second, it is universally held that the governor's call cannot be used to inhibit legislative discretion, and that . . . "the governor may not, under the guise of naming a subject, limit its scope so drastically that he in effect imposes upon the Legislature his own view of what policy should be adopted." Comment, Scope of Governor's Call as Constitutional Limitation on Business of Special Session of the Legislature, 43 Neb. L. Rev. 605, 608-09 (1964). In applying these principles, the majority of courts deciding cases challenging legislation enacted at special legislative sessions as outside the scope of the call have adopted a liberal construction, upholding legislative acts if they can conceivably fall within the subjects mentioned within the call. Id. at 610-615.

In response to your specific question, the key inquiry concerns whether the subject of your proposed legislation, providing for the repeal of LB 999, is "germane to", "relates to", or possesses a "natural connection with" the subject matter designated in the Governor's proclamation. Upon examination of the proclamation, it is apparent that the only portion thereof relevant to this inquiry is the first subject stated therein, which authorizes the Legislature to act as follows:

To adopt a Farm Homestead Protection Act; to change the right to cure default in certain actions involving agricultural land; to protect farm homesteads subject to mortgages or trust deeds executed prior to the effective date of the act by permitting designation and repurchase of the homestead by the mortgagor or trustor through a two-sale process in the event of foreclosure or exercise of a power of sale; to provide for predesignation or disclaimer of farm homesteads in mortgages or trust deeds executed on or after the effective date of the act; to protect farm homesteads subject to mortgages or trust deeds or judgments executed or entered on or after the effective date of the act by permitting redemption of the homestead through an appraisal procedure in the event of foreclosure or exercise of a power of sale or execution on a judgment; and to repeal sections 1 and 4 of Laws 1986, L.B. 999, Eighty-ninth Legislature, Second Session, and to amend the remaining sections thereof in accordance with the foregoing; and to declare an emergency.

Applying the principles previously articulated regarding the interpretation of the scope of the call, we believe legislation to repeal

LB 999 is germane or related to the subject matter in the item first stated in the Governor's proclamation. While it is true that the Governor may specify or narrow the scope of the subjects for legislative consideration, it is equally true that the Legislature may not be unduly limited or restricted in acting upon the subject matter designated. Arrow Club, supra, 177 Neb. at 690, 131 N.W.2d at 137. In this instance, the call specifically includes the subject of LB 999 by making reference to the repeal of sections 1 and 4 of the act, and the amendment of the remaining sections. To interpret the call to preclude legislation repealing LB 999 would, in our view, represent an unduly narrow and restrictive construction with respect to the Legislature's authority to act under the subjects presented. Our conclusion is, in part, guided by the recognition that the task of formulating and enacting legislation is constitutionally committed to the Legislature, and the Governor's authority to establish the agenda for a special session is an exception to the normal separation of powers provided for under Article II, Section 1 of the Nebraska Constitution. Thus, the Governor's authority to prescribe the subjects for legislative consideration at a special session must be reasonably interpreted in a manner consistent with the separation of powers requirement. Empire Savings, Building and Loan Association v. Otero Savings and Loan Association, 640 P.2d 1151 (Colo. 1982).

On the basis of the foregoing, it is our conclusion that, under the subject matter contained in the Governor's special session call, the Legislature is not precluded from considering and enacting legislation which would, in effect, repeal LB 999.

Very truly yours,
ROBERT M. SPIRE
Attorney General

(Signed) L. Jay Bartel
Assistant Attorney General

LJB/bae

cc: Patrick J. O'Donnell
Clerk of the Legislature

GENERAL FILE

LEGISLATIVE BILL 2. Title read. Considered.

Advanced to E & R for Review with 30 ayes, 0 nays, 15 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 1. Title read. Considered.

Standing Committee amendments, AM013S, found in this day's Journal was adopted with 28 ayes, 0 nays, 16 present and not voting, and 5 excused and not voting.

Mr. Vickers offered the following amendment:

AM012S

- 1 1. On page 13, line 3, strike "on written
- 2 demand by the debtor" and insert "automatically"; and in
- 3 line 9 strike "proper demand therefore" and insert "the
- 4 security interest is terminated,".

Mr. Vickers moved for a call of the house. The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

Mr. Vickers requested a roll call vote on his amendment.

Voting in the affirmative, 24:

Barrett	Johnson, R.	McFarland	Pirsch	Vickers
Carsten	Lamb	Morehead	Rogers	Warner
Chambers	Lundy	Nelson	Scofield	Wesely
Hall	Lynch	Pappas	Sieck	Withem
Hartnett	Marsh	Peterson	Smith	

Voting in the negative, 21:

Abboud	DeCamp	Harris	Johnson, L.	Nichol
Baack	Goll	Hefner	Johnson, V.	Remmers
Chizek	Goodrich	Higgins	Labeledz	Rupp
Chronister	Haberman	Hoagland	Landis	Schmit
Conway				

Excused and not voting, 4:

Beyer	Eret	Hannibal	Miller
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The Vickers amendment lost with 24 ayes, 21 nays, and 4 excused and not voting.

The Chair declared the call raised.

Advanced to E & R for Review with 43 ayes, 0 nays, 2 present and not voting, and 4 excused and not voting.

SELECT COMMITTEE REPORT

Enrollment and Review**LEGISLATIVE BILL 2.** Placed on Select File.

(Signed) Timothy Hall, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mr. DeCamp asked unanimous consent to print the following amendment to LB 1 in the Journal. No objections. So ordered.

AM015S

- 1 1. Insert the following new section:
- 2 "Sec. 23. That section 9-411, Uniform
- 3 Commercial Code, be amended to read as follows:
- 4 U9-411. Information provided by filing;
- 5 telephone and written inquiries; filing officer;
- 6 Secretary of State; duties; fees; liability; when.
- 7 (1) Telephone and written inquiries regarding
- 8 information provided by the filing shall be accepted and
- 9 answered by the filing officer. When a filing party
- 10 provides the filing officer with a postage paid
- 11 addressed envelope and a copy of the filing, the filing
- 12 officer shall note the time and date of filing on the
- 13 copy and mail it in the envelope provided. The fee for
- 14 furnishing file information in writing shall be two
- 15 dollars for each debtor or trade name searched by the
- 16 filing officer. If the information request requires
- 17 attestation by the filing officer, an additional fee of
- 18 three dollars shall be assessed. The filing officer and
- 19 his or her employees or agents are exempted from all
- 20 personal liability as a result of any error or omission
- 21 in providing information as required by this section,
- 1 except in cases of willful misconduct or gross
- 2 negligence.
- 3 (2) There shall be a uniform fee, payable to
- 4 the office at which inquiry is made, for any inquiries
- 5 made by telephone regarding information provided by the
- 6 filing. Such fee shall be one dollar per name and shall
- 7 be in addition to any other charge for services. Except
- 8 as provided in subsection (3) of this section, there
- 9 shall be no charge for actual inspection of any public
- 10 records kept by the filing officer.
- 11 (3) There shall be no fee charged for actual
- 12 inspection of records of a filing kept by the Secretary

13 of State for the inspection of ten names or less per day
14 by a single person. There shall be a uniform fee, in
15 addition to any other charge for services payable to the
16 Secretary of State, of one dollar per name for each
17 inspection in excess of ten names per day by a single
18 person.

19 (4) The Secretary of State shall, on or before
20 January 1, 1986, provide twenty-four hour a day seven
21 days a week service for inquiries made by telephone or
22 other electronic media. The Secretary of State shall
23 provide a printed copy of filing information requested
24 for a fee of fifty cents per page.

1 2. On page 15, line 14, after "or" insert
2 "gross".

3 3. On page 24, line 19, after the first comma
4 insert "9-411,".

5 4. Renumber the remaining sections
6 accordingly.

EASE

The Legislature was at ease from 10:45 a.m. until 11:33 a.m.

RESOLUTION

LEGISLATIVE RESOLUTION 4.

Introduced by Lamb, 43rd District; DeCamp, 40th District.

WHEREAS, Prior to January 1, 1986, there were forty Production Credit Association (PCAs) in Nebraska, Iowa, South Dakota, and Wyoming; and

WHEREAS, After January 1, 1986, these PCAs merged to form one Association with fifteen service regions; and

WHEREAS, The Farm Credit System lost \$560 million in the last quarter of 1986; and

WHEREAS, A substantial portion (15%) of those losses were incurred in Nebraska, Iowa, South Dakota, and Wyoming; and

WHEREAS, In spite of the financial distress of the Farm Credit System in this region, prior to January 1, 1986 only two Associations, those of Valentine and O'Neill, were closed; and

WHEREAS, The stock held by members of these two Associations has not been considered as an asset upon liquidation; and

WHEREAS, Farmers and ranchers formerly served by these two Associations are now served by the Midlands PCA; and

WHEREAS, The disparate treatment between stockholders of the Valentine and O'Neill PCAs and those of the Midlands PCA has precluded farmers and ranchers from developing any long-term relationship with these lending institutions by virtue of having been a member of the only liquidated PCAs in the region; and

WHEREAS, No credit has been given to stockholders of the Valentine and O'Neill PCAs for the value of stock held prior to the merger of January 1, 1986, even though there has been no final accounting of the debts and assets of these PCAs; and

WHEREAS, The stockholders of other equally distressed but non-liquidated PCAs received full credit for their stock upon the merger of January 1, 1986.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE EIGHTY-NINTH LEGISLATURE OF NEBRASKA, THIRD SPECIAL SESSION:

1. That this Legislature recognizes the disparate treatment afforded stockholders of the Valentine and O'Neill Production Credit Associations caused by the liquidation of these institutions and the subsequent merger of all other PCAs in Nebraska, Iowa, South Dakota, and Wyoming.

2. That this Legislature petition Congress to enact a resolution directing that the settlement terms and credit for Class B Stock in PCAs subject to liquidation be treated in the same manner as those of on-going Production Credit Associations.

3. That a copy of this Resolution be delivered to the House Agricultural Committee, Subcommittee on Conservation, Credit and Rural Development, and the Senate Agriculture, Nutrition, and Forestry Committee, Subcommittee on Agricultural Credit and Rural Electrification.

4. That a copy of this Resolution be delivered to Nebraska's Congressional Delegation.

Laid over.

UNANIMOUS CONSENT - Print in Journal

Mr. Nichol asked unanimous consent to print the following amendment to LB 2 in the Journal. No objections. So ordered.

AM023S

- 1 1. Insert the following new sections:
- 2 "Sec. 2. There is hereby appropriated (1)
- 3 \$212,500 from the Uniform Commercial Code Cash Fund for
- 4 the period July 1, 1986, to June 30, 1987, and (2)
- 5 \$144,500 from the Uniform Commercial Code Cash Fund for

6 the period July 1, 1987, to June 30, 1988, to the
 7 Secretary of State, for Program 89, to aid in carrying
 8 out the provisions of Legislative Bill 1, Eighty-ninth
 9 Legislature, Third Special Session, 1986.

10 Total expenditures for permanent and temporary
 11 salaries and per diems from funds appropriated in this
 12 section shall exceed neither \$37,000 for the period July
 13 1, 1986, to June 30, 1987, nor \$28,000 for the period
 14 July 1, 1987, to June 30, 1988.

15 Sec. 3. There is hereby appropriated (1)
 16 \$105,000 from the Central Data Processing Revolving Fund
 17 for the period July 1, 1986, to June 30, 1987, and (2)
 18 \$105,000 from the Central Data Processing Revolving Fund
 19 for the period July 1, 1987, to June 30, 1988, to the
 20 Department of Administrative Services, for Program 172,
 21 to aid in carrying out the provisions of Legislative
 1 Bill 1, Eighty-ninth Legislature, Third Special Session,
 2 1986.”.

3 2. Renumber original section 2 as section 4.

STANDING COMMITTEE REPORT

Judiciary

LEGISLATIVE BILL 3. Placed on General File as amended.

Standing Committee amendments to LB 3:

AM022S

- 1 1. On page 3, line 1, strike “17” and insert
- 2 “16”.
- 3 2. On page 5, line 20, after “lien” insert
- 4 “except a tax lien”.
- 5 3. On page 7, line 14, strike “the
- 6 commencement of such action” and insert “notice”.
- 7 4. On page 8, line 25, strike “sale” and
- 8 insert “foreclosure”.
- 9 5. On page 10, line 13, strike “to 14” and
- 10 insert “and 13”.
- 11 6. On page 11, line 1, strike “such” and
- 12 after “section” insert “5 of this act”; and in line 9
- 13 strike “sale” and insert “foreclosure”.
- 14 7. On page 17, line 7, strike “sale” and
- 15 insert “foreclosure”.
- 16 8. Strike original section 14.
- 17 9. On page 20, line 5, after “12” insert “or
- 18 13”.
- 19 10. Renumber remaining sections accordingly.

(Signed) Peter Hoagland, Chairperson

UNANIMOUS CONSENT - Member Excused

Mr. Lynch asked unanimous consent to be excused until he returns. No objections. So ordered.

GENERAL FILE

LEGISLATIVE BILL 3. Title read. Considered.

Standing Committee amendments, AM022S, found in this day's Journal were considered.

Mrs. Higgins and Mr. Hartnett asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Lundy moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

The Standing Committee amendments were adopted with 31 ayes, 0 nays, 11 present and not voting, and 7 excused and not voting.

Pending.

UNANIMOUS CONSENT - Print in Journal

Mr. DeCamp asked unanimous consent to print the following amendment to LB 3 in the Journal. No objections. So ordered.

AM019S

- 1 1. Insert the following new section:
- 2 "Sec. 18. That section 25-2140, Reissue
- 3 Revised Statutes of Nebraska, 1943, be amended to read
- 4 as follows:
- 5 25-2140. After such petition shall be filed,
- 6 while the same is pending, and after a decree is
- 7 rendered thereon, no proceedings whatever shall be had
- 8 at law for the recovery of the debt secured by the
- 9 mortgage; or any part thereof, ~~unless authorized by the~~
- 10 court nor shall any separate subsequent proceeding be
- 11 initiated for recovery of the debt secured by the
- 12 mortgage or any part thereof."

13 2. On page 28, line 16, after "original"
14 insert "section 25-2140, Reissue Revised Statutes of
15 Nebraska, 1943,".

16 3. Renumber the remaining sections
17 accordingly.

Mr. DeCamp asked unanimous consent to print the following amendment to LB 3 in the Journal. No objections. So ordered.

AM025S

1 1. Strike the original sections and all
2 amendments thereto and insert the following new
3 sections:

4 "Section 1. That section 40-101, Revised
5 Statutes Supplement, 1986, be amended to read as
6 follows:

7 40-101. A homestead not exceeding ~~ten~~
8 ~~thousand~~ six thousand five hundred dollars in value
9 shall consist of the dwelling house in which the
10 claimant resides, its appurtenances, and the land on
11 which the same is situated, not exceeding one hundred
12 and sixty acres of land, to be selected by the owner,
13 and not in any incorporated city or village, or, at the
14 option of the claimant, a quantity of contiguous land
15 not exceeding two lots within any incorporated city or
16 village, and shall be exempt from judgment liens and
17 from execution or forced sale, except as provided in
18 sections 40-101 to 40-117.

19 Sec. 2. That section 40-110, Revised Statutes
20 Supplement, 1986, be amended to read as follows:

21 40-110. If from the evidence it appears that
1 the land upon which the execution has been levied can be
2 divided without material injury, the court shall, by an
3 order, set off to the claimant so much of the land,
4 including the residence, not exceeding the quantity
5 prescribed in section 40-101, as will amount in value to
6 the homestead exemption, and the execution may be
7 enforced against the remainder of the land, except that
8 if the residence and the ground on which it is situated,
9 with five acres surrounding the same, amount in value to
10 more than ~~the homestead exemption~~ two thousand dollars,
11 other lands may be selected on which no building or
12 residence stands as the homestead for the debtor and his
13 or her family.

14 Sec. 3. That section 76-1008, Revised

15 Statutes Supplement, 1984, as amended by section 5,
16 Legislative Bill 999, Eighty-ninth Legislature, Second
17 Session, 1986, be amended to read as follows:

18 76-1008. (1) Any person desiring a copy of
19 any notice of default and of any notice of sale under
20 any trust deed may, at any time subsequent to the filing
21 for record of the trust deed and prior to the filing for
22 record of a notice of default thereunder, file for
23 record in the office of the register of deeds of any
24 county in which any part or parcel of the trust property
1 is situated a duly acknowledged request for a copy of
2 any such notice of default and notice of sale. The
3 request shall set forth the name and address of the
4 person or persons requesting copies of such notices and
5 shall identify the trust deed by stating the names of
6 the original parties thereto, the date of filing for
7 record thereof, and the book and page or computer system
8 reference where the same is recorded and shall be in
9 substantially the following form:

10 Request is hereby made that a copy of any
11 notice of default and a copy of notice of sale under the
12 trust deed filed for record, 19....., and
13 recorded in book, page, (or computer
14 system reference) Records of
15 County, Nebraska, executed by as trustor, in
16 which is named as beneficiary and
17 as trustee, be mailed to (insert
18 name) at (insert address)
19 Signature

20 (2) Not later than ten days after recordation
21 of such notice of default, the trustee or beneficiary
22 shall mail, by registered or certified mail with postage
23 prepaid, a copy of such notice with the recording date
24 shown thereon, addressed to each person whose name and
1 address is set forth in a request therefor which has
2 been recorded prior to the filing for record of the
3 notice of default, directed to the address designated in
4 such request. At least twenty days before the date of
5 sale, the trustee shall mail, by registered or certified
6 mail with postage prepaid, a copy of the notice of the
7 time and place of sale, addressed to each person whose
8 name and address is set forth in a request therefor
9 which has been recorded prior to the filing for record
10 of the notice of default, directed to the address
11 designated in such request.

12 (3) Each trust deed shall contain a request
13 that a copy of any notice of default and a copy of any
14 notice of sale thereunder shall be mailed to each person
15 who is a party thereto at the address of such person set
16 forth therein, and a copy of any notice of default and
17 of any notice of sale shall be mailed to each such
18 person at the same time and in the same manner required
19 as though a separate request therefor had been filed by
20 each of such persons as provided in this section. If
21 ~~the trust property is agricultural land as described in~~
22 ~~sections 77-1359 and 77-1360, the notice of default~~
23 ~~shall also include: (a) A statement that the borrower~~
24 ~~has a right under section 76-1012 to remove the default~~
1 ~~within seventy days of the filing of record of the~~
2 ~~notice of default and reinstate the trust deed; (b) a~~
3 ~~listing of the delinquent amounts due for principal and~~
4 ~~interest; (c) any amount less than the total of the~~
5 ~~amounts listed in subdivision (b) of this subsection~~
6 ~~which the lender or holder of the secured interest would~~
7 ~~accept to reinstate the trust deed; and (d) a statement~~
8 ~~that the borrower has a right under section 76-1519 to~~
9 ~~partially redeem the homestead.~~

10 (4) If no address of the trustor is set forth
11 in the trust deed and if no request for notice by such
12 trustor has been recorded as provided in this section, a
13 copy of the notice of default shall be published at
14 least three times, once a week for three consecutive
15 weeks, in a newspaper of general circulation in each
16 county in which the trust property or some part thereof
17 is situated, such publication to commence not later than
18 ten days after the filing for record of the notice of
19 default.

20 (5) No request for a copy of any notice filed
21 for record pursuant to this section nor any statement or
22 allegation in any such request nor any record thereof
23 shall affect the title to trust property or be deemed
24 notice to any person that any person requesting copies
1 of notice of default or of notice of sale has or claims
2 any right, title, or interest in or lien or claim upon
3 the trust property.

4 Sec. 4. That section 76-1012, Reissue Revised
5 Statutes of Nebraska, 1943, as amended by section 6,
6 Legislative Bill 999, Eighty-ninth Legislature, Second
7 Session, 1986, be amended to read as follows:
8 76-1012. Whenever all or a portion of the

9 principal sum of any obligation secured by a trust deed
10 has, prior to the maturity date fixed in such
11 obligation, become due or been declared due by reason of
12 a breach or default in the performance of any obligation
13 secured by the trust deed, including a default in the
14 payment of interest or of any installment of principal,
15 or by reason of failure of the trustor to pay, in
16 accordance with the terms of such trust deed, taxes,
17 assessments, premiums for insurance, or advances made by
18 the beneficiary in accordance with terms of such
19 obligation or of such trust deed, the trustor or his or
20 her successor in interest in the trust property or any
21 part thereof or any other person having a subordinate
22 lien or encumbrance of record thereon or any beneficiary
23 under a subordinate trust deed, at any time within one
24 month, ~~or within seventy days if the trust property is~~
1 ~~agricultural land as described in sections 77-1359 and~~
2 ~~77-1360,~~ of the filing for record of notice of default
3 under such trust deed, if the power of sale is to be
4 exercised, may pay to the beneficiary or his or her
5 successor in interest the entire amount then due under
6 the terms of such trust deed and the obligation secured
7 thereby, including costs and expenses actually incurred
8 in enforcing the terms of such obligation, or trust
9 deed, and the trustee's fees actually incurred not
10 exceeding in the aggregate fifty dollars or one half of
11 one per cent of the entire unpaid principal sum secured,
12 whichever is greater, other than such portion of the
13 principal as would not then be due had no default
14 occurred, and thereby cure the default theretofore
15 existing and thereupon all proceedings theretofore had
16 or instituted shall be dismissed or discontinued, and
17 the obligation and trust deed shall be reinstated and
18 shall be and remain in force and effect the same as if
19 no acceleration had occurred. If the default is cured
20 and the trust deed reinstated in the manner hereinabove
21 provided, the beneficiary, or his or her assignee,
22 shall, on demand of any person having an interest in the
23 trust property, execute and deliver to him or her a
24 request to the trustee that the trustee execute,
1 acknowledge, and deliver a cancellation of the recorded
2 notice of default under such trust deed, and any
3 beneficiary under a trust deed, or his or her assignee,
4 who, for a period of thirty days after such demand,
5 refuses to request the trustee to execute and deliver

6 such cancellation shall be liable to the person entitled
7 to such request for all damages resulting from such
8 refusal. A cancellation of recorded notice of default
9 under a trust deed shall, when acknowledged, be entitled
10 to be recorded and shall be sufficient if made and
11 executed by the trustee in substantially the following
12 form:

13 Cancellation of Notice of Default

14 The undersigned hereby cancels the notice of
15 default filed for record, 19....., and recorded
16 in book, page, (or computer system
17 reference). Records of County,
18 Nebraska, which notice of default refers to the trust
19 deed executed by as trustor, in which
20 is named as beneficiary and as
21 trustee, and filed for record, 19....., and
22 recorded in book, page, (or computer
23 system reference). Records of
24 County, Nebraska.

1 Signature of trustee

2 Sec. 5. That original section 76-1012,
3 Reissue Revised Statutes of Nebraska, 1943, as amended
4 by section 6, Legislative Bill 999, Eighty-ninth
5 Legislature, Second Session, 1986, section 76-1008,
6 Revised Statutes Supplement, 1984, as amended by section
7 5, Legislative Bill 999, Eighty-ninth Legislature,
8 Second Session, 1986, and sections 40-101 and 40-110,
9 Revised Statutes Supplement, 1986, and also Laws 1986,
10 LB 999, sections 1 and 4, are repealed.

11 Sec. 6. Since an emergency exists, this act
12 shall be in full force and take effect, from and after
13 its passage and approval, according to law.”.

RECESS

At 12:07 p.m., on a motion by Mr. Chronister, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:33 p.m., Speaker Nichol presiding.

ROLL CALL

The roll was called and all members were present except Messrs. Beyer, Hannibal, and Miller who were excused; and Messrs. Conway, Harris, Hartnett, V. Johnson, Lynch, McFarland, Wesely, Withem, Mrs. Higgins, and Ms. Scofield who were excused until they arrive.

GENERAL FILE

LEGISLATIVE BILL 3. Considered.

Mr. Chambers offered the following amendment:

Strike section 14, and insert: (add this amendment if Sec. 14 is struck by committee amendment)

"Notwithstanding the provisions of section 11 of this act, in a sale by parcels under section 12 or 13 of this act, if no fair and reasonable bid is received for a nonhomestead parcel so that the mortgagor or trustor does not have a meaningful opportunity to purchase the homestead parcel, then and only then shall the mortgagor or trustor have the right to redeem his or her homestead by request made in accordance with sections 6 to 10 of this act, except that the petition for redemption shall be filed not later than twenty days following the date of the sale and no hearing on confirmation of the sale shall be had nor the trustee's deed delivered during the twenty-day period.

Mr. Pappas moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

Mr. Chambers requested a record vote on his amendment.

Voting in the affirmative, 9:

Chambers	Eret	Johnson, V.	Marsh	Vickers
DeCamp	Hoagland	Labeledz	Pappas	

Voting in the negative, 28:

Barrett	Goodrich	Johnson, R.	Peterson	Scofield
Carsten	Haberman	Lamb	Remmers	Sieck
Chizek	Hall	Landis	Rogers	Smith
Chronister	Harris	Lundy	Rupp	Warner
Conway	Hefner	Morehead	Schmit	Wesely
Goll	Johnson, L.	Nelson		

Present and not voting, 6:

Abboud McFarland Nichol Pirsch Withem
Baack

Excused and not voting, 6:

Beyer Hartnett Higgins Lynch Miller
Hannibal

The Chambers amendment lost with 9 ayes, 28 nays, 6 present and not voting, and 6 excused and not voting.

Mr. V. Johnson offered the following amendment:

AM024S

1 1. Strike original section 14 and insert the
2 following new section:
3 "Sec. 14. In a sale by parcels made pursuant
4 to section 12 or 13 of this act, if no fair and
5 reasonable bid is received for a nonhomestead parcel,
6 then the mortgagor or trustor may object to the sale.
7 The objection shall be filed not later than twenty days
8 following the sale and no hearing on confirmation of the
9 sale shall be held during the twenty-day period. In a
10 sale by parcels made pursuant to section 12 of this act,
11 the court may refuse to confirm the sale and may order
12 the property resold. In a sale by parcels made pursuant
13 to section 13 of this act, the objection shall be
14 delivered to the trustee not later than twenty days
15 following the sale and the trustee's deed shall not be
16 delivered during the twenty-day period. In a sale by
17 parcels made pursuant to section 13 of this act, the
18 trustee may declare a no-sale and resell the property."

Mr. DeCamp moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

The V. Johnson amendment lost with 8 ayes, 25 nays, 10 present and not voting, and 6 excused and not voting.

Mr. DeCamp moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Advanced to E & R for Review with 35 ayes, 4 nays, 4 present and not voting, and 6 excused and not voting.

STANDING COMMITTEE REPORT
Government, Military and Veterans Affairs

The Committee on Government, Military and Veterans Affairs desires to report favorably upon the appointments listed below. The Committee suggests the appointments be confirmed by the Legislature and suggests a record vote.

Lovie D. Broadus - State Personnel Board
Steven F. Danahy - State Personnel Board
Billie Frost - Acting Director, Department of Aeronautics
Larry Bare - Director, Department of Administrative Services

Voting aye: Senators Abboud, Landis, Peterson, Rogers and Withem
Voting nay: None
Absent: Senators Chambers, Chronister and Hoagland

(Signed) David Landis, Chairperson

NOTICE OF COMMITTEE HEARING
Miscellaneous Subjects

Governor Appointments Wednesday, November 19, 1986 1:30 p.m.

State Electrical Board
Paul Mead
Chris L. Saltzgaber

Accountability and Disclosure Commission
Burl M. Johnson
Michael F. Kinney

Nebraska Arts Council
Gail Walling Yanney
Bob Johnston
Phyllis Narveson
Carmen Messineo
Luigi Waites

(Signed) Elroy M. Hefner, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mr. Schmit asked unanimous consent to print the following

amendment to LB 3 in the Journal. No objections. So ordered.

AM017S

1 1. Insert the following new section:

2 "Sec. 3. (1) If agricultural land as
3 described in sections 77-1359 and 77-1360 is involved,
4 within seven days after the receipt of the notice of the
5 right to cure prescribed in section 4 of this act and
6 before the commencement of any judicial or nonjudicial
7 action or proceeding to accelerate indebtedness,
8 foreclose, repossess, or otherwise execute upon the
9 terms of a mortgage or trust deed, the borrower may, by
10 written notice to the Public Counsel, request the
11 implementation of the mediation process as described in
12 this section. The Public Counsel shall notify the
13 lender or holder of the trust deed or mortgage of the
14 request for mediation, and such lender or holder shall
15 provide the Public Counsel with an information statement
16 containing the information prescribed in subsection (2)
17 of this section. The information statement provided to
18 the Public Counsel shall commence the process of
19 mediation.

20 (2) The information statement required by
21 subsection (1) of this section shall include: (a) In
1 the case of acceleration, a statement of the financial
2 implications of acceleration and the borrower's right
3 under this subsection to remove the default and prevent
4 acceleration; (b) a statement of all alleged defaults
5 committed by the borrower; (c) in the case of monetary
6 defaults, separate listings of the delinquent amounts
7 due for principal and interest; (d) the amount which the
8 lender or holder of the mortgage or trust deed would
9 accept to bring the debt current; and (e) in the case of
10 nonmonetary defaults, actions which the borrower can
11 take to remove such defaults.

12 (3) In order to facilitate the process of
13 mediation under this section, the Public Counsel may
14 request and shall be given the assistance that he or she
15 deems necessary for the discharge of his or her
16 responsibilities by the lender and borrower involved.
17 He or she may inspect and examine any records and
18 documents in the possession of the lender and borrower
19 that may be relevant to the subject matter of the
20 notice. He or she may issue a subpoena enforceable by
21 action in an appropriate court to compel any person to

22 appear, give sworn testimony, or produce documentary or
23 other evidence he or she deems relevant to the subject
24 matter of the notice. A person who is required to
1 provide information shall be paid the same fees and
2 travel allowances, shall be accorded the same privileges
3 and immunities as are extended to witnesses in the
4 district courts of this state, and shall be entitled to
5 have counsel present while being questioned.

6 (4) Upon receiving the notice required by
7 subsection (1) of this section, the Public Counsel shall
8 schedule appropriate mediation conferences involving the
9 borrower and the lender and their representatives. The
10 Public Counsel shall notify the borrower and the lender
11 of the time and place of any mediation conference by
12 certified mail sent to their last-known addresses. The
13 initial mediation conference shall be scheduled to occur
14 within forty-five days following receipt of such notice
15 by the Public Counsel. The Public Counsel may schedule
16 subsequent mediation conferences as he or she deems
17 necessary. The Public Counsel may require that any such
18 mediation conference be conducted by telephone
19 conference call. No mediation conference scheduled or
20 conducted under this section shall be open to the
21 public.

22 (5) The purpose of mediation under this
23 section shall be to discover mutually agreeable means of
24 preventing the acceleration of indebtedness,
1 foreclosure, repossession, or execution that is the
2 subject matter of the notice required by subsection (1)
3 of this section. The Public Counsel shall consult with
4 the borrower and the lender and their representatives in
5 an effort to determine whether the acceleration of
6 indebtedness, foreclosure, repossession, or execution
7 may be averted by any reasonable means. Such means may
8 include, but shall not be limited to: (a) Rescheduling
9 payments; (b) extending the period over which payments
10 may be made; (c) restructuring the debt; (d) offering
11 alternative collateral; or (e) any other mutually
12 acceptable alternative or combination of means. The
13 Public Counsel may compel the borrower and the lender to
14 submit written plans of settlement to the Public Counsel
15 within twenty days of receipt of notification that such
16 plan is required.

17 (6) The Public Counsel shall conclude the
18 mediation process with a formal report expressing the

19 terms of any settlement or, when no consensus has been
20 reached for settlement, recommending terms he or she
21 deems appropriate for such settlement. Copies of the
22 report shall be submitted to the borrower and the lender
23 by certified mail sent to their last-known addresses.

24 (7) No documents submitted to or prepared by
1 the Public Counsel pursuant to this section shall be
2 open to public inspection.

3 (8) If the borrower submits the full amount
4 specified in subdivision (2)(d) of this section and
5 performs the actions specified in subdivision (2)(e) of
6 this section within three months from the date the
7 notice of right to cure is sent to the mortgagor, the
8 lender's or secured interest holder's debt collection
9 rights provided by the loan or trust deed shall be
10 removed, and the borrower's status under any such
11 agreement or state law shall be reinstated in full with
12 the same effect as though no default had occurred."

13 2. On page 7, line 25, after "mortgagor"
14 insert ", except that if mediation is requested pursuant
15 to section 3 of this act, the right to cure shall expire
16 three months from the date such notice is sent".

17 3. On page 11, line 23, after "default"
18 insert ", except that if mediation is requested pursuant
19 to section 3 of this act, such request for redemption
20 shall be made and filed not later than three months
21 following such recordation".

22 4. Renumber the remaining sections and
23 correct internal references accordingly.

ADJOURNMENT

At 3:21 p.m., on a motion by Mr. Eret, the Legislature adjourned
until 9:30 a.m., Tuesday, November 18, 1986.

Patrick J. O'Donnell
Clerk of the Legislature

FIFTH DAY - NOVEMBER 18, 1986

LEGISLATIVE JOURNAL

FIFTH DAY - NOVEMBER 18, 1986

LEGISLATIVE JOURNAL

**EIGHTY-NINTH LEGISLATURE
THIRD SPECIAL SESSION**

FIFTH DAY

Legislative Chamber, Lincoln, Nebraska
Tuesday, November 18, 1986

Pursuant to adjournment, the Legislature met at 9:31 a.m., Speaker Nichol presiding.

PRAYER

The prayer was offered by Dr. Robert Palmer, Westminster Presbyterian Church, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Mr. Lynch who was excused; and Messrs. Barrett, Conway, Hall, Hartnett, Landis, Rogers, Schmit, Warner, Mesdames Higgins, Labedz, Pirsch, Smith, and Ms. Scofield who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Fourth Day was approved.

SELECT COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 1. Placed on Select File as amended.
E & R amendments to LB 1:
AM5000

- 1 1. On page 1, line 7, after the first
- 2 semicolon insert "to provide operative dates;"
- 3 2. On page 2, line 12, strike "As used in"
- 4 and insert "For purposes of".
- 5 3. On page 5, line 17, strike "honey dew" and

- 6 insert "honeydew".
 7 4. On page 7, line 6, strike "is" and insert
 8 "shall be".
 9 5. On page 8, line 9, strike the semicolon
 10 and insert an underscored comma.
 11 6. On page 10, line 7, after "on" insert
 12 "any".
 13 7. On page 11, line 15, after "size" insert
 14 an underscored comma.
 15 8. On page 12, line 13, strike "is" and
 16 insert "shall be"; in line 15 strike "lapses" and insert
 17 "shall lapse"; and in line 19 strike "remains" and
 18 insert "shall remain".
 19 9. On page 13, line 9, after "therefor"
 20 insert an underscored comma; in line 13 after
 21 "statement" insert an underscored comma; and strike
 1 lines 18 and 19.
 2 10. On page 14, line 24, after "used" insert
 3 an underscored comma.
 4 11. On page 15, line 10, strike the first
 5 comma and insert "and" and strike the second comma; in
 6 line 11 strike "are exempted" and insert "shall be
 7 exempt"; and in line 17 after "received" insert
 8 "pursuant to this section".
 9 12. On page 16, line 25, strike "is" and
 10 insert "shall be".
 11 13. On page 24, line 2, after "use" insert ";
 12 Secretary of State; furnish printers".

LEGISLATIVE BILL 3. Placed on Select File.

(Signed) Timothy Hall, Chairperson

ANNOUNCEMENT

Mr. L. Johnson announced the Building Maintenance Committee will meet in Room 1003, at 8:15 a.m., Wednesday, November 19, 1986.

SELECT FILE

LEGISLATIVE BILL 2. Mr. L. Johnson renewed the pending Nichol amendment, AM023S, found in the Journal on page 72.

The Nichol amendment was adopted with 25 ayes, 0 nays, 11 present and not voting, and 13 excused and not voting.

Advanced to E & R for Engrossment.

LEGISLATIVE BILL 1. E & R amendments, AM5000, found in this day's Journal were adopted.

Mr. DeCamp renewed his pending amendment, AM015S, found in the Journal on page 70.

The DeCamp amendment was adopted with 26 ayes, 0 nays, 14 present and not voting, and 9 excused and not voting.

Mr. Lamb offered the following amendment:

Sec. 15. (1) Whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations, or otherwise give value, the secured party shall notify the debtor in writing of his right to have a notice of lapse of his effective financing statement filed which would lead to the removal of his name from the files and registrants list of the Secretary of State. The secured party in lieu of such notice may acquire a waiver of the debtor of such right and request that his effective financing statement be retained on file. Such notice and/or waiver may be given and acquired by the secured party at any time prior to the time specified for giving the above notice. The notice of lapse need only be signed by the secured party.

(2) In the event the secured party does not furnish the notice or waiver specified in subsection (1) it shall upon the final payment of all secured obligations within 10 days of final payment, provide the debtor with a written notification of the debtor's right to have a notice of lapse filed. The secured party shall on written demand by the debtor send the debtor a notice of lapse to the effect that he or she no longer claims a security interest under the effective financing statement, which shall be identified by file number.

(3) If the affected secured party fails to send such a notice of lapse within ten days after proper demand, pursuant to subsection (2) of this section he or she shall be liable to the debtor for one hundred dollars and in addition for any loss caused to the debtor by such failure.

(4) On presentation to the county clerk of such a notice of lapse he or she shall treat it as a termination statement and note it in the index.

If he or she has received the termination statement in duplicate, he or she shall return one copy of the notice of lapse to the filing party stamped to show the time of receipt thereof.

(5) There shall be no fee for filing a notice of lapse or termination statement.

Messrs. Abboud and Goll asked unanimous consent to be excused until they return. No objections. So ordered.

The Lamb amendment was adopted with 26 ayes, 1 nay, 16 present and not voting, and 6 excused and not voting.

Mr. Vickers offered the following amendment:

1. On page 13, line 3, strike "on written demand by the debtor" and insert "file a release and"; in line 7 after "to" insert "file a release and"; in line 9 strike "proper demand therefor" and insert "the termination of the security interest";

Mr. Haberman moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Mr. Vickers moved for a call of the house. The motion prevailed with 14 ayes, 0 nays, and 35 not voting.

Mr. Vickers requested a roll call vote on his amendment.

Voting in the affirmative, 10:

Chambers	Hall	McFarland	Scofield	Vickers
Eret	Marsh	Miller	Smith	Wesely

Voting in the negative, 30:

Abboud	Conway	Hefner	Lamb	Pappas
Baack	DeCamp	Higgins	Landis	Remmers
Barrett	Goodrich	Hoagland	Lundy	Rogers
Beyer	Haberman	Johnson, L.	Morehead	Rupp
Carsten	Hannibal	Johnson, R.	Nelson	Schmit
Chronister	Harris	Johnson, V.	Nichol	Sieck

Present and not voting, 5:

Chizek	Hartnett	Peterson	Pirsch	Withem
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Excused and not voting, 4:

Goll	Labeledz	Lynch	Warner
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The Vickers amendment lost with 10 ayes, 30 nays, 5 present and not voting, and 4 excused and not voting.

The Chair declared the call raised.

Advanced to E & R for Engrossment.

LEGISLATIVE BILL 3. Mr. DeCamp renewed his pending amendment, AM025S, found in the Journal on page 75.

Mr. Abboud asked unanimous consent to be excused until he returns. No objections. So ordered.

MR. CARSTEN PRESIDING

Mr. Hefner asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Hoagland moved the previous question. The question is, "Shall the debate now close?" The motion lost with 13 ayes, 20 nays, and 16 not voting.

Mr. Hoagland moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Mr. DeCamp requested a record vote on his amendment.

Voting in the affirmative, 19:

Abboud	Conway	Harris	Miller	Pirsch
Baack	DeCamp	Johnson, L.	Nichol	Rupp
Beyer	Goodrich	Labeledz	Pappas	Scofield
Chronister	Hall	Lundy	Peterson	

Voting in the negative, 25:

Carsten	Hannibal	Johnson, R.	McFarland	Schmit
Chambers	Hartnett	Johnson, V.	Morehead	Sieck
Chizek	Hefner	Lamb	Nelson	Smith
Eret	Higgins	Landis	Remmers	Wesely
Haberman	Hoagland	Marsh	Rogers	Withem

Present and not voting, 2:

Barrett Vickers

Excused and not voting, 3:

Goll Lynch Warner

The DeCamp amendment lost with 19 ayes, 25 nays, 2 present and not voting, and 3 excused and not voting.

Pending.

ATTORNEY GENERAL'S OPINION

DATE: November 18, 1986

SUBJECT: Special Session LB 3.

REQUESTED BY: Senator Rod Johnson

WRITTEN BY: Robert M. Spire, Attorney General
 Bernard L. Packett, Assistant Attorney General

On November 10, 1986, the Governor called the Legislature into Special Session to consider, among others, the following subject:

1: To adopt a Farm Homestead Protection Act; to change the right to cure default in certain actions involving agricultural land; to protect farm homesteads subject to mortgages or trust deeds executed prior to the effective date of the act by permitting designation and repurchase of the homestead by the mortgagor or trustor through a two-sale process in the event of foreclosure or exercise of a power of sale; to provide for predesignation or disclaimer of farm homesteads in mortgages or trust deeds executed on or after the effective date of the act; to protect farm homesteads subject to mortgages or trust deeds or judgments executed or entered on or after the effective date of the act by permitting redemption of the homestead through an appraisal procedure in the event of foreclosure or exercise of a power of sale or execution on a judgment; and to repeal sections 1 and 4 of Laws 1986, L.B. 999, Eighty-ninth Legislature, Second Session, and to amend the remaining sections thereof in accordance with the foregoing; and to declare an emergency.

Article IV, Section 8, of the Constitution of Nebraska, provides:

The Governor may, on extraordinary occasions, convene the Legislature by proclamation, stating therein the purpose for which

they are convened, and the Legislature shall enter upon no business except that for which they were called together.

In response to the Governor's call, L.B. 3 has been introduced which deals generally with the foreclosure and redemption of mortgages and trust deeds given to secure indebtedness on agricultural land.

You have asked if the subjects of mediation or limits on deficiency judgments, and the use of appraisals in retroactive redemptions would be within the Governor's call.

In Chicago, B & O RR Co. v. Wolfe, 61 Neb. 502, 86 N.W. 441, our Supreme Court held that the Legislature, while in Special Session, can transact no business except that for which it was called together.

With regard to the extent to which the Legislature may address itself in response to a call made by the Governor, in Aero Club v. Nebraska Liquor Control Commission, 177 Neb. 686, 131 N.W.2d 134 (1964), our Supreme Court held:

The guiding principle in sustaining legislation of a special sessions it is that it be germane to, or within, the apparent scope of the subjects which have been designated as proper fields for legislation. In construing a call the words of any portion thereof must be interpreted not only as commonly and universally understood, but also as applicable to the subject intended to be affected by legislation.

From our examination of the above case, and cases from other jurisdictions, it would appear that the majority construction of a Governor's call for special session adheres most strongly to the doctrine that the legislative prerogative regarding its response to the call should be upheld if this can be done through any reasonable construction of the call.

In our opinion, the matters of mediation, or limits on deficiency judgments, and the use of appraisals in matters of redemption would be germane to, or within the scope of the subjects set forth in the Governor's call for special session.

Very truly yours,
ROBERT M. SPIRE
Attorney General

(Signed) Bernard L. Packett
Assistant Attorney General

BLP:pjs

cc: Patrick J. O'Donnell
Clerk of the Legislature

Correctly Engrossed

The following bill was correctly engrossed: 2.

(Signed) Timothy Hall, Chairperson

Enrollment and Review Change to LB 2

The following changes, required to be reported for publication in the Journal, have been made:

ER0100

1. In the Nichol amendment, AM023S, adopted November 18, 1986, on page 1, lines 16 and 18, "Central" has been struck.

On page 1, line 4, "to appropriate funds to aid in carrying out the provisions of Legislative Bill 1, Eighty-ninth Legislature, Third Special Session, 1986;" has been inserted after the semicolon.

(Signed) Mary E. Sommermeyer
E & R Attorney

RECESS

At 12:01 p.m., on a motion by Mr. Nichol, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:32 p.m., Speaker Nichol presiding.

ROLL CALL

The roll was called and all members were present except Messrs. Abboud, V. Johnson, and Lynch who were excused; and Mr. Goll, Mesdames Labeledz, and Pirsch who were excused until they arrive.

SELECT FILE

LEGISLATIVE BILL 3. Mr. Schmit renewed his pending amendment, AM017S, found in the Journal on page 82.

Mr. Schmit withdrew his pending amendment, AM017S, found in the Journal on page 82.

Mr. DeCamp withdrew his pending amendment, AM019S, found in the Journal on page 74.

Pending.

RESOLUTION

LEGISLATIVE RESOLUTION 5.

Introduced by Hartnett, 45th District.

WHEREAS, the State of Nebraska has long recognized its responsibility to provide for the education of those of its citizens suffering mental handicaps to enable them to live full and productive lives; and

WHEREAS, the Special Education Program of the State of Nebraska is recognized nationwide as a model of concern, commitment, and caring for the education of these people; and

WHEREAS, the National Association of Retarded Citizens annually awards to one teacher in the nation the coveted award of Teacher of the Year in recognition of distinguished service and superior standards of educational performance in the training of persons with mental handicaps; and

WHEREAS, the award was made this year to Judy McMahon, a Bellevue resident who teaches at Belleaire School in the Bellevue Public School District; and

WHEREAS, Ms. McMahon is a Nebraska native, born in West Point, Nebraska, and trained at the University of Nebraska in Lincoln.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE EIGHTY-NINTH LEGISLATURE OF NEBRASKA, THIRD SPECIAL SESSION:

1. That the Legislature hereby recognizes the accomplishments of Judy McMahon and congratulates her on the honor she has brought to herself, her school district, and her state by reason of her exceptional service.

2. That the Legislature further encourages all Nebraskans to join in recognizing the achievements of Ms. McMahon and to strive to emulate her dedication to education and public service in whatever endeavor they undertake.

Laid over.

The Committee on Judiciary desires to report favorably upon the appointments listed below. The Committee suggests the appointments be confirmed by the Legislature and suggests a record vote.

Shirley Howell - Crime Victims Reparation Committee
Professor Gaylon L. Kuchel - Crime Victims Reparation Committee
Keith Lant - Crime Victims Reparation Committee
John Paris - Crime Victims Reparation Committee
Marlene Cupp - Crime Victims Reparation Committee

Voting aye: Senators Chambers, Chizek, Conway, McFarland, and Hoagland

Voting nay: None

Absent: Senators Abboud, Remmers, and Rupp

(Signed) Peter Hoagland, Chairperson

UNANIMOUS CONSENT - Member Excused

Mr. Chronister asked unanimous consent to be excused until he returns. No objections. So ordered.

SELECT FILE

LEGISLATIVE BILL 3. Mr. Chambers offered the following amendment:

"The Legislature finds and declares that sound public policy justifies the establishment of a procedure by which the economic and psychological stress of farm foreclosures may be mitigated. To this end, it is the intent of the Legislature that the Farm Homestead Protection Act be liberally construed to effectuate the purpose of providing mortgagors and trustors affected by this Act with a meaningful opportunity to redeem his or her farm homestead."

Mr. Chambers moved for a call of the house. The motion prevailed with 12 ayes, 0 nays, and 37 not voting.

Mr. Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 20:

Carsten	Eret	Labeledz	Marsh	Morehead
Chambers	Higgins	Landis	McFarland	Nelson
Chizek	Hoagland	Lundy	Miller	Remmers

Smith Vickers Warner Wesely Withem

Voting in the negative, 17:

Baack	Hannibal	Johnson, R.	Pappas	Rupp
Beyer	Harris	Lamb	Peterson	Schmit
Conway	Hefner	Nichol	Rogers	Sieck
Goodrich	Johnson, L.			

Present and not voting, 6:

Barrett	Haberman	Hartnett	Pirsch	Scofield
DeCamp				

Absent and not voting, 1:

Hall

Excused and not voting, 5:

Abboud	Chronister	Goll	Johnson, V.	Lynch
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The Chambers amendment lost with 20 ayes, 17 nays, 6 present and not voting, 1 absent and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Mr. Vickers offered the following amendment:

AM032S

- 1 1. On page 4, line 2, after "she" insert "or
- 2 a family member"; and in line 24 after "owner" insert
- 3 "or a family member".
- 4 2. On page 5, line 6, after "(3)" insert
- 5 "Family member shall mean a member of the mortgagor's,
- 6 trustor's, or judgment debtor's family related within
- 7 the fourth degree of kindred according to the rules of
- 8 civil law, or such member's spouse;
- 9 (4)"; in line 13 after "that" insert "(a)"; in
- 10 line 15 after "designation" insert "and (b) the
- 11 requirement of section 40-101 that the mortgagor,
- 12 trustor, or judgment debtor reside in the dwelling house
- 13 shall be satisfied if a family member resides in the
- 14 dwelling house"; in line 16 strike "(4)" and insert
- 15 "(5)"; and in line 22 strike "(5)" and insert "(6)".
- 16 3. On page 6, line 4, after "mortgagor"

- 17 insert "or a family member".
18 4. On page 8, line 12, after "trustor" insert
19 "or a family member".

Mr. Vickers withdrew his pending amendment, AM032S.

Mr. DeCamp offered the following amendment:
AM034S

- 1 1. On page 8, strike beginning with "If" in
2 line 11 through line 16; and in line 19 after "no"
3 insert "(a)"; and in line 20 after "or" insert
4 "(b)waiver or".
5 2. On page 9, line 4, after "(3)" insert
6 "(a)"; and in line 24 strike "subsection" and insert
7 "subdivision".
8 3. On page 10, after line 1, insert:
9 "(b) On and after the effective date of this
10 act, prior to the execution of any mortgage or trust
11 deed upon agricultural land, the mortgagor or trustor
12 may waive by written acknowledgment his or her right to
13 make a designation of homestead. The written
14 acknowledgment shall contain a statement that the
15 mortgagor or trustor understands that he or she has the
16 right to make a designation of homestead in the mortgage
17 or trust deed and the execution of such acknowledgment
18 constitutes the waiver of rights otherwise available for
19 the purpose of affording the mortgagor or trustor the
20 opportunity to retain his or her homestead in the event
21 of a default upon such mortgage or trust deed. Such
1 written acknowledgment shall be set forth as a preface
2 to the mortgage or trust deed and shall be filed for
3 record as a part of the mortgage or trust deed in the
4 office of the register of deeds. Failure by the
5 mortgagee or trustee to file a written acknowledgement
6 as provided in this subdivision shall nullify any
7 purported waiver by the mortgagor or trustor of his or
8 her right to make a designation of homestead."; in line
9 6 after the first "a" insert "waiver or"; in line 19
10 after "or" insert "a waiver or"; and in line 24 after
11 "no" insert "waiver or".
12 4. On page 11, line 13, after "no" insert
13 "waiver or".
14 5. On page 12, line 1, after "no" insert
15 "waiver or".
16 6. On page 16, line 5, before "disclaimed"

17 insert "waived or".

18 7. On page 17, line 15, after "has" insert

19 "waived or".

MR. CARSTEN PRESIDING

Mr. Hartnett asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Haberman moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Mr. DeCamp moved for a call of the house. The motion prevailed with 18 ayes, 0 nays, and 31 not voting.

The DeCamp amendment was adopted with 25 ayes, 15 nays, 4 present and not voting, and 5 excused and not voting.

Mr. Hoagland requested a machine vote on the advancement of the bill.

Advanced to E & R for Engrossment with 35 ayes, 6 nays, 3 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

SELECT COMMITTEE REPORTS

Enrollment and Review

Correctly Engrossed

The following bill was correctly engrossed: 1.

(Signed) Timothy Hall, Chairperson

Enrollment and Review Change to LB 1

The following changes, required to be reported for publication in the Journal, have been made:
ER0101

1. In lieu of the Lamb amendment adopted November 18, 1986, original section 15 and all amendments thereto have been struck and the following new section inserted:

"Sec. 15. (1) Whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations, or otherwise give value, the secured party shall notify the debtor in writing of his or her right to have a notice of lapse of his or her effective financing statement filed which shall lead to the removal of his or her name from the files and lists compiled by the Secretary of State. In lieu of such notice, the secured party may acquire a waiver of the debtor of such right and a request by the debtor that his or her effective financing statement be retained on file. Such notice may be given or waiver acquired by the secured party at any time prior to the time specified in this subsection for giving the notice.

(2) If the secured party does not furnish the notice or obtain the waiver specified in subsection (1) of this section, the secured party shall, within ten days of final payment of all secured obligations, provide the debtor with a written notification of the debtor's right to have a notice of lapse filed. The secured party shall on written demand by the debtor send the debtor a notice of lapse to the effect that he or she no longer claims a security interest under the effective financing statement, which shall be identified by file number. The notice of lapse need only be signed by the secured party.

(3) If the affected secured party fails to send a notice of lapse within ten days after proper demand, pursuant to subsection (2) of this section, he or she shall be liable to the debtor for one hundred dollars and in addition for any loss caused to the debtor by such failure.

(4) On presentation to the county clerk of a notice of lapse, he or she shall treat it as a termination statement and note it in the index. If he or she has received the termination statement in duplicate, he or she shall return one copy of the notice of lapse to the filing party stamped to show the time of receipt thereof.

(5) There shall be no fee for filing a notice of lapse or termination statement."

2. In the Standing Committee amendments, AM013S, adopted November 17, 1986, on page 2, line 21, "and strike the second comma" has been struck; and in line 23 "27" has been struck and "28" inserted.

3. On page 1, line 1, "sales of farm products" has been struck and "secured interests" inserted; in line 2 "9-411," has been inserted after the first comma; and in line 6 "to change a liability standard;" has been inserted after the second semicolon.

(Signed) Mary E. Sommermeyer
E & R Attorney

Education

Your Committee on Education whose chairman is Senator Tom Vickers to whom was referred the following gubernatorial appointments, reports the same back to the Legislature with the recommendation that the appointments be approved by the Legislature. The committee suggests a record vote.

James Symonds - Educational Lands and Funds

Henry Krug, Jr. - Educational Lands and Funds

On a motion by Senator Morehead, seconded by Senator Barrett, the Committee on Education voted to recommend that James Symonds and Henry Krug, Jr. be confirmed by the Legislature in their appointments to the Board of Educational Lands and Funds. Voting aye: Senators Vickers, Baack, Barrett, Eret, Lamb, Morehead and Nelson. Absent: Senator R. Johnson.

(Signed) Tom Vickers, Chairperson

UNANIMOUS CONSENT - Member Excused

Mr. Barrett asked unanimous consent to be excused until he returns. No objections. So ordered.

RESOLUTIONS

LEGISLATIVE RESOLUTION 3. Read. Considered.

Mr. Sieck asked unanimous consent to have his name added as co-introducer to LR 3. No objections. So ordered.

LR 3 was adopted with 29 ayes, 0 nays, and 20 not voting.

LEGISLATIVE RESOLUTION 4. Read. Considered.

LR 4 was adopted with 26 ayes, 0 nays, and 23 not voting.

SPEAKER NICHOL PRESIDING

LEGISLATIVE RESOLUTION 1. Read. Considered.

Mr. McFarland moved to refer LR 1 to the Executive Board.

Mr. Miller asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. McFarland moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 1 nay, and 23 not voting.

Mr. McFarland moved for a call of the house. The motion prevailed with 12 ayes, 0 nays, and 37 not voting.

The McFarland motion prevailed with 27 ayes, 4 nays, 12 present and not voting, and 6 excused and not voting.

Mr. DeCamp moved to reconsider the vote to refer LR 1 to committee.

The Chair declared the call raised.

Messrs. Wesely, Chronister, Hall, Peterson, Withem, McFarland, Mesdames Higgins, and Smith asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. DeCamp withdrew his pending motion to reconsider.

WITHDRAW - Amendment to LR 1

Mr. Chambers withdrew his pending amendment to LR 1, found in the Journal on page 60.

ATTORNEY GENERAL'S OPINION

DATE: November 18, 1986

REQUESTED BY: Senator Elroy M. Hefner

WRITTEN BY: Robert M. Spire, Attorney General
L. Jay Bartel, Assistant Attorney General

You have requested our opinion concerning whether the Legislature may properly consider the confirmation of certain gubernatorial appointments during the course of the current special session.

In your letter, you refer to a previous opinion in which our office concluded that confirmation of appointments of the Governor can properly be made at a special session, even though such specific

business is not stated in the Governor's proclamation calling the Legislature into session. Report of Attorney General 1945-46, p. 408. Our opinion in this regard noted that, under former Section 11, Article IV of our Constitution, the confirmation of temporary gubernatorial appointments was to be considered at "the next meeting of the senate", and this language was construed to include special as well as regular sessions of the Legislature. Id. at 409.

Upon review of our present Constitution, it is apparent that no meaningful change has been adopted regarding this language to alter our previous conclusion. In this regard, Article IV, Section 12 of the Nebraska Constitution, provides:

If the Legislature is not in session, the Governor shall make a temporary appointment until the next session of the Legislature, at which time a majority of the members of the Legislature shall have the right to approve or disapprove the appointment. (Emphasis added).

Based on the foregoing, we are compelled to concur with our earlier opinion concerning this issue. Furthermore, under the circumstances outlined herein, we believe no useful purpose would be served by rendering a formal opinion on this question.

Should you or your staff have any further comments or concerns, please contact the undersigned.

Very truly yours,
ROBERT M. SPIRE
Attorney General
L. Jay Bartel
Assistant Attorney General

(Signed)

LJB:jem
cc: Patrick J. O'Donnell
Clerk of the Legislature

3/06

STANDING COMMITTEE REPORT

Public Works

The Committee on Public Works desires to report favorably upon the appointments listed below. The Committee suggests the appointments be confirmed by the Legislature and suggests a record vote.

Oil and Gas Commission
James L. Eatmon
Harold C. Tremain

Motor Vehicle Industry Licensing Board

James Earp
Clifford E. Langel
P. J. Morgan

Vote: Aye: Senators Schmit, Lamb, Beyer, DeCamp, Harris, and Nelson

Absent and Not Voting: Senators Lynch and Smith

(Signed) Loran Schmit, Chairperson

EASE

The Legislature was at ease from 3:58 p.m. until 4:24 p.m.

SELECT COMMITTEE REPORTS

Enrollment and Review

Correctly Engrossed

The following bill was correctly engrossed: 3.

(Signed) Timothy Hall, Chairperson

VISITORS

Visitors to the Chamber were Paul and Eunice O'Donnell from Trumbull.

ADJOURNMENT

At 4:24 p.m., on a motion by Mr. Lundy, the Legislature adjourned until 9:30 a.m., Wednesday, November 19, 1986.

Patrick J. O'Donnell
Clerk of the Legislature

SIXTH DAY - NOVEMBER 19, 1986

LEGISLATIVE JOURNAL

SIXTH DAY - NOVEMBER 19, 1986

LEGISLATIVE JOURNAL

**EIGHTY-NINTH LEGISLATURE
THIRD SPECIAL SESSION**

SIXTH DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, November 19, 1986

Pursuant to adjournment, the Legislature met at 9:33 a.m., Speaker Nichol presiding.

PRAYER

The prayer was offered by Dr. Robert Palmer, Westminster Presbyterian Church, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Mr. Hannibal who was excused; and Messrs. V. Johnson, Lamb, Lynch, and Rupp who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Fifth Day was approved.

**NOTICE OF COMMITTEE HEARING
Agriculture and Environment**

Governor Appointments, Wednesday, November 19, 1986 10:00 a.m.
James R. Gregg - Environmental Control Council
Charles A. Poremba - Environmental Control Council
Don Hutchens - Director, Department of Agriculture

(Signed) Rod Johnson, Chairperson

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following resolutions: LR 3 and LR 4.

RESOLUTION

LEGISLATIVE RESOLUTION 5. Read. Considered.

LR 5 was adopted with 30 ayes, 0 nays, and 19 not voting.

MOTION - Approve Appointments

Mr. Landis moved the adoption of the report of the Government, Military and Veterans Affairs Committee for the following Governor appointments found in the Journal on page 82: Lovie D. Broadus - State Personnel Board, Steven F. Danahy - State Personnel Board, Billie Frost - Acting Director, Department of Aeronautics, Larry Bare - Director, Department of Administrative Services.

Voting in the affirmative, 31:

Abboud	Goll	Hoagland	Nelson	Scofield
Baack	Hall	Johnson, L.	Nichol	Sieck
Barrett	Harris	Landis	Pappas	Smith
Beyer	Hartnett	Lundy	Remmers	Warner
Carsten	Hefner	McFarland	Rogers	Wesely
Chizek	Higgins	Miller	Schmit	Withem
Eret				

Voting in the negative, 0.

Present and not voting, 13:

Chambers	DeCamp	Johnson, R.	Morehead	Pirsch
Chronister	Goodrich	Labeledz	Peterson	Vickers
Conway	Haberman	Marsh		

Excused and not voting, 5:

Hannibal	Johnson, V.	Lamb	Lynch	Rupp
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These appointments were confirmed with 31 ayes, 0 nays, 13 present and not voting, and 5 excused and not voting.

Mr. Hoagland moved the adoption of the report of the Judiciary Committee for the following Governor appointments found in the Journal on page 95: Shirley Howell - Crime Victims Reparation Committee, Professor Gaylon L. Kuchel - Crime Victims Reparation Committee, Keith Lant - Crime Victims Reparation Committee, John Paris - Crime Victims Reparation Committee, Marlene Cupp - Crime Victims Reparation Committee.

Voting in the affirmative, 36:

Abboud	Eret	Johnson, L.	Nelson	Scofield
Baack	Goll	Landis	Nichol	Sieck
Barrett	Goodrich	Lundy	Pappas	Smith
Beyer	Harris	Marsh	Pirsch	Vickers
Carsten	Hefner	McFarland	Remmers	Warner
Chizek	Higgins	Miller	Rogers	Wesely
Chronister	Hoagland	Morehead	Schmit	Withem
Conway				

Voting in the negative, 0.

Present and not voting, 8:

Chambers	Haberman	Hartnett	Labeledz	Peterson
DeCamp	Hall	Johnson, R.		

Excused and not voting, 5:

Hannibal	Johnson, V.	Lamb	Lynch	Rupp
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These appointments were confirmed with 36 ayes, 0 nays, 8 present and not voting, and 5 excused and not voting.

Mr. Schmit moved the adoption of the report of the Public Works Committee for the following Governor appointments found in the Journal on page 102: Oil and Gas Commission - James L. Eatmon, Harold C. Tremain; Motor Vehicle Industry Licensing Board - James Earp, Clifford E. Langel, P.J. Morgan.

Voting in the affirmative, 30:

Abboud	Chronister	Goodrich	Hoagland	Lundy
Baack	Conway	Haberman	Johnson, R.	Morehead
Carsten	Eret	Harris	Labeledz	Nelson
Chizek	Goll	Hefner	Landis	Nichol

Pappas	Schmit	Sieck	Vickers	Wesely
Rogers	Scofield	Smith	Warner	Withem

Voting in the negative, 0.

Present and not voting, 14:

Barrett	DeCamp	Higgins	McFarland	Pirsch
Beyer	Hall	Johnson, L.	Miller	Remmers
Chambers	Hartnett	Marsh	Peterson	

Excused and not voting, 5:

Hannibal	Johnson, V.	Lamb	Lynch	Rupp
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These appointments were confirmed with 30 ayes, 0 nays, 14 present and not voting, and 5 excused and not voting.

STANDING COMMITTEE REPORTS

Education

Your Committee on Education whose chairman is Senator Tom Vickers to whom was referred the following gubernatorial appointments, reports the same back to the Legislature with the recommendation that the appointments be approved by the Legislature. The committee suggests a record vote.

Coordinating Commission on Postsecondary Education

Eric Seacrest

Beth Klosterman

On a motion by Senator Barrett, seconded by Senator Baack, the Committee on Education voted to recommend that Eric Seacrest and Beth Klosterman be confirmed by the Legislature in their appointments to the Coordinating Commission on Postsecondary Education. Voting aye: Senators Vickers, Baack, Barrett, Eret, Lamb, Morehead and Nelson. Absent: Senator R. Johnson.

Your Committee on Education whose chairman is Senator Tom Vickers to whom was referred the following gubernatorial appointments, reports the same back to the Legislature with the recommendation that the appointments be approved by the Legislature. The committee suggests a record vote.

Safety Center Advisory Council

Lorraine Giles
Jack Buist
Ken Sieckmeyer
Harold Sobotka
Jack Swanson
Gerald Sughroue
Rollin Schneider
Charles Fairbanks
Larry Morris
James Preston
Fred Zwonechek
Gary Lund
Dr. Ken Kimball
John Siefkes
Carol Cope
Robert Gunderson

On a motion by Senator Nelson, seconded by Senator Morehead, the Committee on Education voted to recommend the above named individuals be confirmed by the Legislature in their appointments to the Safety Center Advisory Council. Voting aye: Senators Vickers, Baack, Barrett, Eret, Lamb, Morehead and Nelson. Absent: Senator R. Johnson.

(Signed) Tom Vickers, Chairperson

Health and Human Services

The Health and Human Services Committee met in executive session on November 18, 1986 and voted to recommend confirmation of the following gubernatorial appointments.

Nebraska Child Abuse Prevention Fund Board

Jessie Rasmussen
John Dudley
Marietta Sims
Kathy Campbell
Deane Finnegan
Dr. Tom Tonneges
Karen Authier

Director of the Department of Public Institutions
Dale Berton Johnson

State Board of Health

Arlene Rhodes
 Larry Bartels
 Dr. Craig Nelson
 James Kenney
 Dr. Jeanette Masek
 Janet Coleman

Rural Health Manpower Commission

Marcia Goering
 Dr. Judy Butler
 Dr. L.C. Potts
 Dr. Perlita Narvaez
 Jean Garten

The vote on confirmation of all these individuals except Deane Finnegan was Senators Withem, Smith, Hall, Chronister, Peterson and Wesely in favor; Senator Lynch was absent. The vote on Finnegan was Withem, Smith, Hall and Wesely in favor; Senator Chronister not voting; Senator Peterson voting no; and Senator Lynch was absent.

(Signed) Don Wesely, Chairperson

MOTION - Approve Appointments

Mr. Vickers moved the adoption of the report of the Education Committee for the following Governor appointments found in the Journal on page 100 and this day's Journal:

Educational Lands and Funds - James Symonds, Henry Krug, Jr.; Coordinating Commission on Postsecondary Education - Eric Seacrest, Beth Klosterman; Safety Center Advisory Council - Lorraine Giles, Jack Buist, Ken Sieckmeyer, Harold Sobotka, Jack Swanson, Gerald Sughroue, Rollin Schneider, Charles Fairbanks, Larry Morris, James Preston, Fred Zwonechek, Gary Lund, Dr. Ken Kimball, John Siefkes, Carol Cope, Robert Gunderson.

Voting in the affirmative, 33:

Abboud	Eret	Hoagland	Miller	Scofield
Baack	Goodrich	Johnson, L.	Nelson	Sieck
Barrett	Haberman	Labeledz	Nichol	Smith
Beyer	Hall	Landis	Pappas	Vickers
Carsten	Harris	Lundy	Rogers	Wesely
Chronister	Hefner	Marsh	Schmit	Withem
Conway	Higgins	McFarland		

Voting in the negative, 0.

Present and not voting, 11:

Chambers	Goll	Johnson, R.	Peterson	Remmers
Chizek	Hartnett	Morehead	Pirsch	Warner
DeCamp				

Excused and not voting, 5:

Hannibal	Johnson, V.	Lamb	Lynch	Rupp
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These appointments were confirmed with 33 ayes, 0 nays, 11 present and not voting, and 5 excused and not voting.

Mr. Wesely moved the adoption of the report of the Health and Human Services Committee for the following Governor appointments found in this day's Journal: Nebraska Child Abuse Prevention Fund Board - Jessie Rasmussen, John Dudley, Marietta Sims, Kathy Campbell, Deane Finnegan, Dr. Tom Tonneges, Karen Authier; Director of the Department of Public Institutions - Dale Barton Johnson; State Board of Health - Arlene Rhodes, Larry Bartels, Dr. Craig Nelson, James Kenney, Dr. Jeanette Masek, Janet Coleman; Rural Health Manpower Commission - Marcia Goering, Dr. Judy Butler, Dr. L.C. Potts, Dr. Perlita Narvaez, Jean Garten.

Voting in the affirmative, 36:

Abboud	DeCamp	Hefner	McFarland	Schmit
Baack	Eret	Higgins	Miller	Scofield
Barrett	Goll	Johnson, L.	Morehead	Smith
Beyer	Goodrich	Labeledz	Nelson	Vickers
Carsten	Haberman	Landis	Nichol	Warner
Chizek	Hall	Lundy	Remmers	Wesely
Chronister	Harris	Marsh	Rogers	Withem
Conway				

Voting in the negative, 0.

Present and not voting, 8:

Chambers	Hoagland	Pappas	Pirsch	Sieck
Hartnett	Johnson, R.	Peterson		

Excused and not voting, 5:

Hannibal Johnson, V. Lamb Lynch Rupp

These appointments were confirmed with 36 ayes, 0 nays, 8 present and not voting, and 5 excused and not voting.

RESOLUTION

LEGISLATIVE RESOLUTION 6.

Introduced by Hall, 7th District; Goll, 16th District; Peterson, 21st District; Barrett, 39th District; Withem, 14th District; Nelson, 35th District; Remmers, 1st District; Wesely, 26th District; R. Johnson, 34th District; Rogers, 41st District; Beyer, 3rd District; Labedz, 5th District; Goodrich, 20th District; Baack, 47th District; Pappas, 42nd District; Eret, 32nd District; Hefner, 19th District; DeCamp, 40th District; Haberman, 44th District.

WHEREAS, the Nebraska Department of Health has proposed the elimination of all existing locally administered Emergency Medical Service Regions and the creation of two state run Emergency Medical Service Regions; and

WHEREAS, the elimination of the existing Emergency Medical Service Regions will result in the loss of easy access to equipment, training materials and technical assistance all currently provided at the local level; and

WHEREAS, the creation of a state administered Emergency Medical Service System will result in the loss of local control; and

WHEREAS, the existing Emergency Medical Service Regions have a history of effective administration of the Emergency Medical Service System,

NOW THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE EIGHTY-NINTH LEGISLATURE OF NEBRASKA, THIRD SPECIAL SESSION:

1. That the Legislature designate its Committee on Health and Human Services to conduct a public hearing to examine what effect the elimination of existing locally administered Emergency Medical Service Regions and the creation of a state administered Emergency Medical Service System will have upon the delivery of emergency medical services to the citizens of this State.

Laid over.

STANDING COMMITTEE REPORT

Banking, Commerce and Insurance

The Committee on Banking, Commerce and Insurance desires to report favorably upon the appointments listed below. The Committee suggests the appointments be confirmed by the Legislature and suggests a record vote.

Research and Development Authority

Lee B. Jones
Robert Allington, Ph.D.
Thomas C. Smith
Clifford Williams
William Thiesen
Steven E. Levy
Steven Sherman
Lewis E. Harris

Investment Council

F. Gregory Hayden
Dennis D. Jorgensen

VOTING AYE: Senators Harris, Haberman, Higgins, Schmit, Labedz, Pappas and DeCamp

VOTING NAY: None

ABSENT: Senator Beyer

(Signed) John W. DeCamp, Chairperson

ADJOURNMENT

At 10:02 a.m., on a motion by Mr. Vickers, the Legislature adjourned until 9:30 a.m., Thursday, November 20, 1986.

Patrick J. O'Donnell
Clerk of the Legislature

SEVENTH DAY - NOVEMBER 20, 1986**LEGISLATIVE JOURNAL****EIGHTY-NINTH LEGISLATURE
THIRD SPECIAL SESSION****SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, November 20, 1986

Pursuant to adjournment, the Legislature met at 9:30 a.m., Speaker Nichol presiding.

PRAYER

The prayer was offered by Dr. Robert Palmer, Westminster Presbyterian Church, Lincoln, Nebraska.

ROLL CALL

The roll was called and all members were present except Messrs. Hartnett and V. Johnson who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the Sixth Day was approved.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following resolution: LR 5.

RESOLUTION

LEGISLATIVE RESOLUTION 6. Read. Considered.

Mr. Lamb asked unanimous consent to have his name added as co-introducer to LR 6. No objections. So ordered.

LR 6 was adopted with 39 ayes, 0 nays, and 10 not voting.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 2. With Emergency.

A BILL FOR AN ACT relating to appropriations; to appropriate funds for the expenses incurred during the Eighty-ninth Legislature, Third Special Session; to appropriate funds to aid in carrying out the provisions of Legislative Bill 1, Eighty-ninth Legislature, Third Special Session, 1986; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 49:

Abboud	Eret	Hoagland	McFarland	Rupp
Baack	Goll	Johnson, L.	Miller	Schmit
Barrett	Goodrich	Johnson, R.	Morehead	Scofield
Beyer	Haberman	Johnson, V.	Nelson	Sieck
Carsten	Hall	Labeledz	Nichol	Smith
Chambers	Hannibal	Lamb	Pappas	Vickers
Chizek	Harris	Landis	Peterson	Warner
Chronister	Hartnett	Lundy	Pirsch	Wesely
Conway	Hefner	Lynch	Remmers	Withem
DeCamp	Higgins	Marsh	Rogers	

Voting in the negative, 0.

Not voting, 0.

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 1. With Emergency.

A BILL FOR AN ACT relating to secured interests; to amend sections 9-307, 9-411, 9-415, and 9-420, Uniform Commercial Code; to state intent; to define terms; to provide for a central filing system for effective financing statements; to provide duties; to provide fees; to change a liability standard; to harmonize provisions; to provide

operative dates; to provide severability; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 48:

Abboud	Eret	Hoagland	McFarland	Rogers
Baack	Goll	Johnson, L.	Miller	Rupp
Barrett	Goodrich	Johnson, R.	Morehead	Schmit
Beyer	Haberman	Johnson, V.	Nelson	Scofield
Carsten	Hall	Labedz	Nichol	Sieck
Chambers	Hannibal	Lamb	Pappas	Smith
Chizek	Harris	Landis	Peterson	Warner
Chronister	Hartnett	Lundy	Pirsch	Wesely
Conway	Hefner	Lynch	Remmers	Withem
DeCamp	Higgins	Marsh		

Voting in the negative, 0.

Present and not voting, 1:

Vickers

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

MOTION - Return LB 3 to Select File

Mr. Chambers moved to return LB 3 to Select File for the following specific amendment:

To strike the DeCamp amendment.

Pending.

Mr. Haberman asked unanimous consent to be excused until he returns. No objections. So ordered.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following bills: 1 and 2.

MOTION - Return LB 3 to Select File

The Chambers pending motion found in this day's Journal to return LB 3 to Select File for his specific amendment was renewed.

Mr. McFarland moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Chambers requested a record vote on his motion to return.

Voting in the affirmative, 11:

Chambers	Hall	Johnson, V.	McFarland	Vickers
Chizek	Hoagland	Landis	Smith	Wesely
Eret				

Voting in the negative, 34:

Abboud	DeCamp	Hefner	Marsh	Rogers
Baack	Goll	Johnson, L.	Miller	Rupp
Barrett	Goodrich	Johnson, R.	Nelson	Schmit
Beyer	Haberman	Labeledz	Nichol	Scofield
Carsten	Hannibal	Lamb	Peterson	Warner
Chronister	Harris	Lundy	Pirsch	Withem
Conway	Hartnett	Lynch	Remmers	

Present and not voting, 4:

Higgins	Morehead	Pappas	Sieck
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The Chambers motion to return lost with 11 ayes, 34 nays, and 4 present and not voting.

Mr. Hoagland moved to return LB 3 to Select File for the following specific amendment:

- (1) Strike the Chambers Amendment;
- (2) Strike the DeCamp Amendment;
- (3) Amend the Committee Amendments so as to restore the original Section 14.

Mr. Hoagland withdrew his pending motion to return LB 3 to Select File.

BILL ON FINAL READING

The following bill was read and put upon final passage:

LEGISLATIVE BILL 3. With Emergency.

A BILL FOR AN ACT relating to real estate; to amend section 76-1006, Revised Statutes Supplement, 1984, section 76-1012, Reissue Revised Statutes of Nebraska, 1943, as amended by section 6, Legislative Bill 999, Eighty-ninth Legislature, Second Session, 1986, and section 76-1008, Revised Statutes Supplement, 1984, as amended by section 5, Legislative Bill 999, Eighty-ninth Legislature, Second Session, 1986; to adopt the Farm Homestead Protection Act; to harmonize provisions; to provide severability; to repeal the original sections, and also Laws 1986, LB 999, sections 1 and 4; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 39:

Abboud	DeCamp	Higgins	Marsh	Rogers
Baack	Goll	Johnson, L.	Miller	Rupp
Barrett	Goodrich	Johnson, R.	Morehead	Schmit
Beyer	Haberman	Labeledz	Nelson	Scofield
Carsten	Hannibal	Lamb	Nichol	Smith
Chizek	Harris	Landis	Peterson	Warner
Chronister	Hartnett	Lundy	Pirsch	Withem
Conway	Hefner	Lynch	Remmers	

Voting in the negative, 10:

Chambers	Hall	Johnson, V.	Pappas	Vickers
Eret	Hoagland	McFarland	Sieck	Wesely

Not voting, 0.

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

UNANIMOUS CONSENT - Members Excused

Messrs. Haberman and Sieck asked unanimous consent to be excused until they return. No objections. So ordered.

ANNOUNCEMENT

Mr. Carsten announced the Legislative Council Meeting is scheduled for Friday, November 21, 1986 at 9:30 a.m., in Room 1517; and at 1:30 p.m., in the Chamber.

NOTICE OF COMMITTEE HEARING **Health and Human Services**

November 24, 1986, Rm. 1520

3:00 p.m.

Emergency Medical Services Reorganization

(Signed) Don Wesely, Chairperson

REPORT OF EXECUTIVE BOARD

November 20, 1986

The following senators have been elected by the Executive Board to serve on the Nebraska Retirement Systems committee. As you know, by statute, the Chairperson of the Appropriations Committee also serves on the committee.

Rex Haberman, Chairperson
Chris Abboud
Glenn Goodrich
Shirley Marsh
Arlene Nelson

(Signed) Cal Carsten, Chairperson
Executive Board

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following bill: 3.

REPORT OF REGISTERED LOBBYISTS

In accordance with LB 987, passed in the 1976 session of the Legislature and amended by LB 4 and LB 41 in the 1977 session of the Legislature, the attached is a list of all Lobbyists who have

registered as of November 20, 1986. Further lists listing additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell
Clerk of the Legislature

Dennis, Michael E. - Lincoln (Withdrawn 86/11/17), Nebraska
Wildlife Federation (Withdrawn 86/11/17)

Koch, Gerald - Ralston (Withdrawn 86/10/31), Omaha Suburban
Area Council of Schools (Withdrawn 86/10/31)

Morris, William J. - Lincoln (Withdrawn 86/11/18), Nebraska Auto
Body Association (Withdrawn 86/11/18)

Nelson and Harding

Bartle, Robert F. - Lincoln (Withdrawn 86/11/18), Retail
Merchants Association of Nebraska Inc. (Withdrawn 86/11/18)

PRESENTED TO THE GOVERNOR

Presented to the Governor on November 20, 1986, at 10:50 a.m., were the following bills: 1 & 2.

(Signed) Pam Moravec, Enrolling Clerk

STANDING COMMITTEE REPORTS **Agriculture and Environment**

The Committee on Agriculture and Environment desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

Don D. Hutchens - Director, Department of Agriculture

Voting aye: Senators Barrett, Chizek, Eret, R. Johnson, Pirsch and Sieck. Absent: Senators Remmers and Vickers.

The Committee on Agriculture and Environment desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

Charles A. Poremba - Environmental Control Council

Voting aye: Senators Barrett, Chizek, Eret, R. Johnson, Pirsch and Sieck. Absent: Senators Remmers and Vickers.

The Committee on Agriculture and Environment desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

James R. Gregg - Environmental Control Council

Voting aye: Senators Barrett, Chizek, Eret, R. Johnson and Sieck.
Not voting: Senator Pirsch. Absent: Senators Remmers and Vickers.

(Signed) Rod Johnson, Chairperson

Miscellaneous Subjects

The Committee on Miscellaneous Subjects desires to report favorably upon the appointments listed below. The Committee suggests the appointments be confirmed by the Legislature and suggests a record vote.

State Electrical Board
Chris L. Saltzgaber

Accountability and Disclosure Commission
Michael F. Kinney
Burl M. Johnson

Nebraska Arts Council
Gail Walling Yanney
Bob Johnston
Phylliss Narveson
Carmen Messineo
Luigi Waites

Voting yes: Conway, Haberman, Hartnett, Hefner, Higgins, Pappas.
Voting no: None. Absent: V. Johnson, Morehead.

(Signed) Elroy M. Hefner, Chairperson

MOTION - Approve Appointments

Mr. R. Johnson moved the adoption of the report of the Agriculture and Environment Committee for the following Governor appointments found in this day's Journal:

Department of Agriculture - Don D. Hutchens, Director;
Environmental Control Council - Charles A. Poremba, James R. Gregg.

Voting in the affirmative, 35:

Abboud	Eret	Johnson, R.	McFarland	Schmit
Baack	Goll	Johnson, V.	Miller	Scofield
Barrett	Harris	Labedz	Nelson	Smith
Beyer	Hefner	Landis	Nichol	Vickers
Carsten	Higgins	Lundy	Peterson	Warner
Chronister	Hoagland	Lynch	Remmers	Wesely
DeCamp	Johnson, L.	Marsh	Rupp	Withem

Voting in the negative, 0.

Present and not voting, 12:

Chambers	Goodrich	Hartnett	Morehead	Pirsch
Chizek	Hall	Lamb	Pappas	Rogers
Conway	Hannibal			

Excused and not voting, 2:

Haberman Sieck

These appointments were confirmed with 35 ayes, 0 nays, 12 present and not voting, and 2 excused and not voting.

Mr. Hefner moved the adoption of the report of the Miscellaneous Subjects Committee for the following Governor appointments found in this day's Journal:

State Electrical Board - Chris L. Saltzgaber; Accountability and Disclosure Commission - Michael F. Kinney, Burl M. Johnson; Nebraska Arts Council - Gail Walling Yanney, Bob Johnston, Phyllis Narveson, Carmen Messineo, Luigi Waites.

Voting in the affirmative, 36:

Abboud	Conway	Hefner	Johnson, V.	Marsh
Baack	Eret	Higgins	Lamb	McFarland
Barrett	Goll	Hoagland	Landis	Miller
Beyer	Hannibal	Johnson, L.	Lundy	Morehead
Chizek	Harris	Johnson, R.	Lynch	Nelson

Nichol	Rogers	Schmit	Smith	Wesely
Pappas	Rupp	Scofield	Vickers	Withem
Remmers				

Voting in the negative, 0.

Present and not voting, 11:

Carsten	DeCamp	Hall	Labeledz	Pirsch
Chambers	Goodrich	Hartnett	Peterson	Warner
Chronister				

Excused and not voting, 2:

Haberman Sieck

These appointments were confirmed with 36 ayes, 0 nays, 11 present and not voting, and 2 excused and not voting.

Mr. DeCamp moved the adoption of the report of the Banking, Commerce and Insurance Committee for the following Governor appointments found in the Journal on page 112:

Research and Development Authority - Lee B. Jones, Robert Allington, Ph.D., Thomas C. Smith, Clifford Williams, William Thiesen, Steven E. Levy, Steven Sherman, Lewis E. Harris.

Voting in the affirmative, 30:

Baack	Harris	Labeledz	Morehead	Schmit
Beyer	Hefner	Landis	Nelson	Scofield
Carsten	Higgins	Lundy	Nichol	Smith
DeCamp	Hoagland	Marsh	Pappas	Vickers
Goll	Johnson, L.	McFarland	Remmers	Wesely
Hannibal	Johnson, V.	Miller	Rupp	Withem

Voting in the negative, 0.

Present and not voting, 17:

Abboud	Chronister	Hall	Lamb	Pirsch
Barrett	Conway	Hartnett	Lynch	Rogers
Chambers	Eret	Johnson, R.	Peterson	Warner
Chizek	Goodrich			

Excused and not voting, 2:

Haberman Sieck

These appointments were confirmed with 30 ayes, 0 nays, 17 present and not voting, and 2 excused and not voting.

Mr. DeCamp moved the adoption of the report of the Banking, Commerce and Insurance Committee for the following Governor appointment found in the Journal on page 112: Dennis D. Jorgensen - Investment Council.

Voting in the affirmative, 31:

Baack	Harris	Lamb	Nelson	Rupp
Beyer	Hefner	Landis	Nichol	Scofield
Carsten	Higgins	Lundy	Pappas	Smith
DeCamp	Hoagland	McFarland	Pirsch	Vickers
Eret	Johnson, L.	Miller	Remmers	Wesely
Goll	Labedz	Morehead	Rogers	Withem
Hall				

Voting in the negative, 0.

Present and not voting, 16:

Abboud	Chronister	Hannibal	Johnson, V.	Peterson
Barrett	Conway	Hartnett	Lynch	Schmit
Chambers	Goodrich	Johnson, R.	Marsh	Warner
Chizek				

Excused and not voting, 2:

Haberman Sieck

This appointment was confirmed with 31 ayes, 0 nays, 16 present and not voting, and 2 excused and not voting.

Mr. DeCamp moved the adoption of the report of the Banking, Commerce and Insurance Committee for the following Governor appointment found in the Journal on page 112: F. Gregory Hayden - Investment Council.

Mr. DeCamp offered the following amendment:

to not approve the appointment of Greg Hayden to the Investment Council.

Mr. DeCamp withdrew his pending amendment.

The Banking, Commerce and Insurance Committee report for the Governor appointment of F. Gregory Hayden was renewed.

Mr. Landis requested a record vote on the confirmation report.

Voting in the affirmative, 25:

Carsten	Hartnett	Landis	Miller	Scofield
Chizek	Higgins	Lundy	Morehead	Smith
Eret	Hoagland	Lynch	Nelson	Vickers
Hall	Johnson, V.	Marsh	Pappas	Wesely
Harris	Labedz	McFarland	Rupp	Withem

Voting in the negative, 11:

Baack	DeCamp	Johnson, L.	Lamb	Peterson
Barrett	Hefner	Johnson, R.	Nichol	Rogers
Chronister				

Present and not voting, 11:

Abboud	Conway	Goodrich	Pirsch	Schmit
Beyer	Goll	Hannibal	Remmers	Warner
Chambers				

Excused and not voting, 2:

Haberman Sieck

This appointment was confirmed with 25 ayes, 11 nays, 11 present and not voting, and 2 excused and not voting.

PRESENTED TO THE GOVERNOR

Presented to the Governor on November 20, 1986, at 11:20 a.m., was the following bill: 3.

(Signed) Pam Moravec, Enrolling Clerk

MOTION - Approve Journal

Mr. Eret moved that the Legislative Journal for the Seventh Day be approved as prepared by the Clerk.

The motion prevailed.

MOTION - Adjourn Sine Die

Mr. Vickers moved that the Eighty-Ninth Legislature, Third Special Session of the Legislature, having finished all business before it, now at 11:56 a.m. adjourn sine die.

The motion prevailed.

Patrick J. O'Donnell
Clerk of the Legislature

RECEIVED AFTER ADJOURNMENT

LEGISLATIVE JOURNAL

**EIGHTY-NINTH LEGISLATURE
THIRD SPECIAL SESSION**

MESSAGE FROM THE GOVERNOR

November 20, 1986

Mr. Patrick O'Donnell
Clerk of the Legislature
State Capitol
Lincoln, Nebraska 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 1, 2 and 3 were received in my office on November 20, 1986.

These bills were signed by me on November 20, 1986 and delivered to the Secretary of State.

Sincerely,
(Signed) **ROBERT KERREY**
Governor

RK/jm

CERTIFICATE

I, Patrick J. O'Donnell, Clerk of the Legislature, hereby certify that the foregoing communications are true and correct copies of letters provided concerning action on bills after adjournment of the Eighty-Ninth Legislature, Third Special Session.

(Signed) Patrick J. O'Donnell
Clerk of the Legislature

November 21, 1986
Lincoln, Nebraska

CHRONOLOGY OF BILLS
EIGHTY-NINTH LEGISLATURE
THIRD SPECIAL SESSION
1986

LEGISLATIVE BILL 1. By DeCamp

Nov. 12	1	Read first time	43
Nov. 12	1	Referred to Committee on Banking, Commerce and Insurance	46
Nov. 13	2	Notice of hearing (11/14)	48
Nov. 17	4	Placed on General File - Com am #013S	61
Nov. 17	4	Committee amendment #013S adopted. Vickers amendment #012S lost. Advanced for Review	69
Nov. 17	4	DeCamp amendment #015S printed	70
Nov. 18	5	Placed on Select File - AM5000	86
Nov. 18	5	AM5000 (E & R) adopted. DeCamp pending amendment #015S p. 70 and Lamb amendment adopted. Vickers amendment lost. Advanced for Engrossment	88
Nov. 18	5	Correctly Engrossed. ER0101 change	98
Nov. 20	7	Final Reading w/E 48-0-1	114
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